

**VOLUME TWO**

**Truth and  
Reconciliation  
Commission  
of South Africa  
Report**



The report of the Truth and Reconciliation Commission was presented to President Nelson Mandela on 29 October 1998.

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# National Overview

## ■ PREFACE

- 1 This chapter seeks to provide an overview of the context in which conflict developed and gross violations of human rights occurred. Other chapters in this volume focus specifically on the nature and extent of violations committed by the major role-players throughout the mandate period. The volume focuses specifically on the perpetrators of gross violations of human rights and attempts to understand patterns of abuse, forms of gross violations of human rights, and authorisation of and accountability for them.

## Sources

- 2 In identifying the principal organisations and individuals responsible for gross violations of human rights in its mandate period, the Truth and Reconciliation Commission (the Commission) had a vast range of information at its disposal. In addition to court records and press reports, it received over 21 000 statements from individuals alleging that they were victims of human rights abuses and 7 124 from people requesting amnesty for acts they committed, authorised or failed to prevent. In addition, the Commission received submissions from the former State President, Mr P W Botha, political parties, a variety of civil institutions and organisations, the armed forces and other interested parties. All these submissions were seriously considered by the Commission. Through its power to *subpoena* witnesses, the Commission was also able to gather a considerable amount of information in section 29 and other public hearings.
- 3 While the Promotion of National Reconciliation and Unity Act (the Act) gave the Commission free access to whatever state archives and documents it required, in practice, access to the holdings of various security agencies was difficult, if not impossible, with the exception of the National Archives. It was also discovered that literally tons of security files were destroyed on the instructions of the previous government.

- 4 Despite these difficulties, a vast corpus of documentation was collected – more material than has been available to any previous enquiry into human rights in South Africa. However, the sources of information, while rich, were not evenly distributed, presenting difficulties in the identification of organisations and individuals who became perpetrators of torture, killing and other gross violations. The amnesty applications received from former members of the South African Police (SAP) represent an invaluable new source of material. The Commission received many applications from serving or retired police officers specifying their role in gross violations of human rights. Some of these cases, such as the death in detention of Mr Steve Biko, were well known both at home and abroad; others were unknown outside a very small circle of the perpetrators themselves. The information contained in amnesty applications revealed a deeper level of truth about the fate of a number of individual victims.
- 5 The Commission received notably fewer amnesty applications from members of the former South African Defence Force (SADF), notwithstanding the fact that the SADF was involved in a series of regional conflicts over a period of more than fifteen years. Many of these conflicts transgressed the ‘laws of war’ as laid down in international protocols. The Commission was unable to determine whether fewer gross violations are attributable to military personnel than to police officers or whether, in the belief that they would be less likely to face future prosecution, military personnel were more reticent than police officers in applying for amnesty.
- 6 Moreover, the Commission found the South African Police Services (SAPS) considerably more helpful with regard to the transmission of documents, the identification of former personnel and so on than officers of the South African National Defence Force (SANDF). The latter was frequently reticent about supplying documents, often imposing unduly severe restrictions and constraints on access to military documentation, including the screening of documentary material made available to the Commission.
- 7 With regard to applications for amnesty, the Commission noted that individual applications received from personnel of the African National Congress (ANC), some of whom now hold senior positions in government, frequently lacked the depth of detail found in police amnesty applications. The Commission acknowledged the fact that the ANC’s political leadership accepted collective political and moral responsibility for violations committed by its members. However, lack of detail made it difficult for researchers to ascertain with precision the role of

individual members of the ANC in the commission of gross violations of human rights. The writing of this volume was also severely constrained by the fact that the majority of security force amnesty applications had not been heard at the time of reporting. This affected the ability of the Commission to include in this report assessments of the planning and authorisation of gross violations.

Observations in these respects are therefore tentative and will be dealt with more fully in the final report of the work of the Amnesty Committee.

- 8 The Commission attempted to resolve these difficulties by identifying patterns and trends in the gross violations reported, as well as patterns of behaviour in groups and parties responsible for their perpetration. In so doing, it aimed to achieve a broader and more accurate picture of the history of human rights violations during the mandate period, 1960–94.
- 9 As elsewhere in this report, researchers and writers in the Commission have made use of secondary source material. The reports and publications of research institutes and monitoring bodies, both at home and abroad, have been extensively used. Affidavits collected for other enquiries and investigations have been used where they apply to the cases before the Commission. Published monographs, press reports and ‘unrest reports’ of the South African Police (SAP) have been extensively used.

## **External violations**

- 10 While few statements were received from deponents and victims outside South Africa, it has been argued that the *majority* of victims of gross violations of human rights were in fact residing outside the country’s borders at the time the violations were committed. One of the biggest single incidents of gross violation which occurred during the mandate period was the assault by the SADF on a base of the South West African People’s Organisation (SWAPO) located at Kassinga, Angola in 1978. More than 600 people were killed at Kassinga in one day. According to SWAPO, these were unarmed refugees. According to the South African government, Kassinga was a guerrilla base and thus a legitimate military target. This is discussed in this volume.
- 11 Second, from evidence before the Commission, it would appear that conflicts in southern African states, particularly in Mozambique, Namibia and Angola, were often inextricably linked to the struggle for control of the South African state. Hence there is a sense in which the large number of people who died in wars

and conflicts in the neighbouring states since 1960 did so, to some extent, in the furtherance of the South African struggle. While it is impossible to specify how many of these deaths were directly connected to the struggle for South Africa, the Commission believes that the number of people killed *inside* the borders of the country in the course of the liberation struggle was considerably lower than those who died *outside*.

- 12 It is for this reason that a distinction has been made in this volume between security activities and gross violations of human rights *outside* and *inside* South Africa's borders. This does not imply that the two spheres were separate. It is, however, clear that some of the most powerful protagonists in the conflict in South Africa recognised at an early stage that the contest was occurring to a large extent outside South Africa. In its first submission to the Commission, the SADF stated emphatically that "national security policy made explicit provision for pro-active actions beyond the borders of the RSA"<sup>1</sup>. This was consistent with a view frequently expressed at State Security Council (SSC) meetings that the defence of South Africa should take place outside its borders. The South African government's principal armed opponent, Umkhonto weSizwe (MK) also recognised, after the arrest of many of its personnel and the destruction of its internal organisation in the early 1960s, that its war had of necessity to be waged from outside South Africa.
- 13 Evidence before the Commission shows that members of the ANC and Pan Africanist Congress (PAC) in exile were also involved in the commission of gross violations of human rights, particularly within their own ranks.

## **Internal violations**

- 14 The difficulty of attributing precise responsibility for human rights violations committed outside South Africa applies also to the internal situation. As the political conflict in the country gained intensity, many more people were drawn into activism. In the 1990s particularly, more gross violations were carried out by members of South African society acting in what they considered to be the pursuit of a political aim than by members of political organisations acting on the express orders of their superiors. Both the state security services and guerrilla organisations such as MK aimed to supply such social actors with the means to achieve their aims – including weapons, information, trained personnel, and, in the case of the state, funding. It was therefore difficult to attribute direct responsibility for many violations, such as the lynchings or necklacings carried

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<sup>1</sup> p. 12.

out by crowds loosely aligned to the ANC/UDF in the 1980s, and attacks carried out by social groups such as the ‘*witdoeke*’ in Crossroads, encouraged and endorsed by state security forces.

- 15 The political authorities that promoted these actions, such as the chief of staff (intelligence) of the SADF, or the ANC propaganda station *Radio Freedom*, can be seen to have encouraged them or created the climate in which they occurred. They cannot, however, be described as direct perpetrators.
- 16 By the 1990s, the great majority of human rights violations, especially killings, were being carried out by persons who were not bound to a political authority. In some cases, weapons were supplied by organised groups. The Commission sought to establish a proper balance between individual cases where an identified perpetrator could be shown to have violated the rights of a specific victim, and the many more cases where large numbers of people, hundreds or even thousands, were killed in the course of ‘collective’ violence. Examples of the latter included drive-by shootings, indiscriminate massacres on trains or in certain residential areas, and armed political conflicts in KwaZulu-Natal and the East Rand where the responsibility of individual actors cannot be identified with precision.
- 17 Volume Three of this report deals with human rights violations in the different provinces and regions of the country. In many ways, the division between that volume and this is an arbitrary one and has resulted in an inevitable overlap in certain instances. In others, detail is included in one volume and simply sketched or referred to in the other. Ideally, the two volumes should be read together and seen as complementary.

## ■ **SOCIAL AND POLITICAL BACKGROUND TO THE SOUTHERN AFRICAN CONFLICT: 1960 -1990**

- 18 By far the largest proportion of amnesty applicants from the security forces and, to a large extent, the leadership of the liberation movements, were children and teenagers in the 1960s. They grew up in a world that was dominated by racism – a powerful socialising principle. The period was further characterised by two major historical phenomena: decolonisation and the cold war.

## Racism

- 19 Race was a powerful organising framework, drawn on, to varying degrees, by all parties in the conflict.
- 20 White South Africans were constantly told by their parents, schools, the media and many churches that black people were different from them and at a lower stage of development. With the emergence of the bantustan scheme, they were told that blacks were not even South Africans. Thus a distinction emerged in their minds about the citizenship of South Africans. Whites were the South Africans while their fellow black residents were now foreigners, temporary sojourners in white South Africa, no different from other disenfranchised migrants working outside of their home countries. They became 'the other', a short remove from what they were to become, 'the enemy'. An SADF amnesty applicant relates how, on arriving in what was then South West Africa, he and his fellow conscripts were told by their commander: "*Boys, hier gaan julle duisende kaffers doodskiet*" (Boys, here you will shoot dead thousands of 'kaffirs').
- 21 For the PAC 'the enemy' was just as unequivocally based on race. Thus in the words of Azanian People's Liberation Army (APLA) commander Brigadier Mofokeng:

*The enemy of the liberation movement of South Africa and of its people was always the settler colonial regime of South Africa. Reduced to its simplest form, the apartheid regime meant white domination, not leadership, but control and supremacy ... The pillars of apartheid protecting white South Africa from the black danger, were the military and the process of arming of the entire white South African society. This militarisation, therefore, of necessity made every white citizen a member of the security establishment. [Transcript of Commission hearing on the armed forces]*

- 22 Even where parties to the conflict, such as the ANC, held to a strongly non-racial policy, the experience of their members and those they sought to organise drew centrally on the racial realities of South Africa.

## Decolonisation

- 23 The tide of decolonisation sweeping through Africa served only to reinforce the tendency of whites to regard blacks as 'the enemy'. The creation of a substantial number of new member-states of the United Nations and the shift in public

perceptions in the former colonial metropoles greatly increased the pressure on the former government to grant full civil and political rights to all its inhabitants. British Prime Minister Harold Macmillan shocked and angered many members of the South African government when, in an address to the South African Parliament in February 1960, he spoke of “winds of change” blowing through Africa, implying the need for the South African government to adapt to changing times. Its response was to do all in its power to ensure that this wind changed course before reaching South African borders. It did so, moreover, in the face of rising expectations of black South Africans that the days of white minority rule were numbered and that it was a matter of time before South Africa, too, would be ruled by a black majority.

## The Cold War

- 24 Another important factor shaping the South African government’s actions in the 1960s was the anti-Communist zeal of the cold war, in which the West was seen to be engaged in an effort to stem an encroaching and creeping Communism. Despite the South African government’s diplomatic alienation from Britain and the Commonwealth in the early 1960s, the notion of a common struggle against the forces of Communism gained increasing popularity among key security policy-makers. The adoption of the Freedom Charter in 1955, the relationship between the ANC and the South African Communist Party (SACP) after 1960, and the ANC’s later links to China and then the Soviet bloc, entrenched the National Party (NP) government’s perception of a link between Communism and the struggle against white domination.
- 25 A number of NP leaders, including Mr FW de Klerk, have acknowledged in varying degrees that the racial policies pursued by the NP government in its attempt to ensure continued white rule were ‘a mistake’ and ‘morally indefensible’. The struggle against Communism nevertheless continues to be put forward as an explanation and justification for security force actions. In the words of former Security Branch and Military Intelligence operative, Major Craig Williamson:

*[The] South African security forces gave very little cognisance to the political motivation of the South African liberation movements, beyond regarding them as part and parcel of the Soviet onslaught against the ‘civilised/freedemocratic’ Western world. This fact, I believe, made it easier for the most violent actions to be taken against the liberation movements and their supporters, because such violence was not aimed at our own people, but at a ‘foreign’ enemy ...*

- 26 Thus, in the period 1960–94, virtually all opposition was labelled ‘Communist’ in its overwhelmingly negative ‘Cold War’ sense. Extra-parliamentary, and particularly black, opposition was considered illegitimate, and those associated with such opposition were effectively criminalised.
- 27 The liberation and later internal opposition movements were undeniably increasingly influenced by the tide of national liberation struggles sweeping the globe, many of which were deeply influenced by socialist ideas. The ANC, SWAPO (South West African People’s Organisation), MPLA (Popular Movement for the Liberation of Angola) and FRELIMO (Mozambique Liberation Front) all increasingly presented themselves as part of this process and, to a greater or lesser degree, articulated their struggles as part of an international struggle against colonialism and imperialism, sometimes within the framework of socialism and Marxism.

## ■ **THE DEVELOPMENT OF INSURGENCY AND COUNTER-INSURGENCY STRATEGIES 1960–1990**

- 28 The history of resistance in South Africa was frequently associated with shifts in the patterns and forms of gross violations of human rights, as well as in the changing identities of perpetrator groups. In response to the events of 1960 and the liberation movements’ adoption of the armed struggle, the former state invoked the full force of its security legislation to curb resistance. Detention of political activists became the primary means of intensifying repression. Torture of detainees and other abuses associated with detention were the main forms of violation reported to the Commission for this early period. The most frequently reported perpetrator grouping was the security police.
- 29 The growing influence of counter-insurgency thinking – associated with South Africa’s involvement in the wars in the former South West Africa and Rhodesia – had a substantial impact on the patterns and modes of abuse reported. In the first place, it introduced a regional dimension to gross violations of human rights. Victims were increasingly non-South Africans. Secondly, as the political temperature rose within South Africa, models of crowd control employed by both the SAP and the SADF were informed by a counter-insurgency perspective. Thus counter-insurgency thinking was turned not only on a foreign but on a domestic civilian population. Increasingly, gross violations were attributed to those responsible for public order policing, among them the riot police and later the

SADF. Thirdly, counter-insurgency thinking legitimated and facilitated the emergence of covert units such as Vlakplaas, and resulted in an increase in the number of reported abductions and killings of political activists. This trend intensified from the mid-1980s, as the rationale of counter-revolutionary warfare took hold within dominant quarters of the security establishment.

- 30 The insurrectionary model of resistance adopted by the ANC in the 1980s was based on the notion of a ‘people’s war’. Associated with this shift in strategic thinking was the fact that, increasingly, gross violations of human rights were perpetrated not by members under the direct command of the ANC or MK, but by civilians who saw themselves as ANC supporters and acted in line with what they perceived to be the ANC’s strategic direction. Thus violations associated with the liberation and mass democratic movements in the 1980s were not, in the main, the result of armed actions and sabotage, but tended to target those perceived to be collaborating with the policies and practices of the former government.

### **1960–1964: Internal repression and the emergence of armed opposition movements**

- 31 The NP government responded decisively to the events of 21 March 1960 at Sharpsville, Langa, Cato Manor and elsewhere, and to the attempted assassination of Prime Minister Verwoerd on 5 April 1960. It banned both the ANC and PAC and declared a nation-wide state of emergency during which it detained over 1 600 people. It banned all public gatherings in terms of the Riotous Assemblies Act and sent the PAC leader, Mr Robert Sobukwe, to jail for three years. He would not, in fact, be released for nine – the one and only victim of a clause (the ‘Sobukwe clause’) in the 1963 General Laws Amendment Act that enabled the police to continue to detain individuals after the expiration of their sentences.
- 32 While the government was facing widespread opposition in urban areas like Sharpsville, it also faced a sustained rural uprising in eastern Pondoland. Again, the government’s response was uncompromising. After several clashes in which protesters were killed, the police launched a helicopter assault on a meeting at Ngquza Hill in June 1960, killing at least eleven people. A state of emergency declared in eastern Transkei towards the end of that year remained in force for the next twenty years. During this period, twenty individuals were sentenced to death for offences relating to the Pondoland uprising, and eleven were executed.

33 The end of the national state of emergency in August 1960 led to a re-evaluation of tactics and strategies of resistance on the part of a number of political movements opposed to the government. The first to adopt an armed strategy was a new underground grouping, the African Resistance Movement (ARM), composed largely of disaffected white members of the Liberal Party and anti-SACP Trotskyites. The ARM launched a campaign of sabotage directed at strategic installations or non-human targets in October 1961.

34 A development of more lasting significance was the abandonment of non-violence as the preferred mode of protest by both the ANC and PAC as well as other groupings like the SACP, and the adoption of one or other form of armed struggle. In 1961, the ANC and the SACP both supported the establishment of an underground guerrilla army, Umkhonto weSizwe (MK), which formally declared war on the Republic of South Africa on 16 December 1961.

35 During the 1960s and most of the 1970s, armed actions by MK resulted in few human rights violations. Targets were symbolic or economic and care was taken not to endanger civilians. The first sabotage actions of MK resulted in some damage to property, notably to electricity pylons and similar infrastructure, but the intention of such actions was, according to the MK Manifesto, to "bring the government and its supporters to their senses before it is too late" rather than to initiate a revolution.

36 MK's *Operation Mayibuye* was a more ambitious plan which envisaged small groups of armed combatants infiltrating the country and "sparking off" a guerrilla war, by means of the recruitment of "armed auxiliaries" inside the country, political agitation, and urban sabotage. This strategy was thwarted by the arrests of the MK High Command at Rivonia in 1963. Police evidence showed that proposed targets of MK included administration board buildings and policemen. The trial led to sentences of life imprisonment for Mr Nelson Mandela and a number of other ANC leaders.

37 Over the next three years, MK carried out a widespread campaign of sabotage of government buildings and infrastructure. At this time, leaders of the liberation movements were working on a new strategy of guerrilla warfare, which entailed members undergoing military training abroad.

38 The PAC explained in its submission how it turned towards violence. Until March 1960, the PAC's policy, as expressed by Mr Robert Sobukwe, was that while

"[w]e are ready to die for our cause; we are not ready to kill". However, the Sharpsville massacre led to the "formation of rudimentary armed units comprising mainly ... Task Force members." Armed operations were carried out at Mbasher (Bashee) Bridge, Paarl, Ntalonze and Queenstown between 1960 and 1962. Poqo was formally established as the military wing of the PAC and the decision to embark on an armed struggle was taken in Maseru in September 1961. The "Task Force/Poqo" was later transformed into APLA.

- 39 Poqo targeted white suburbs and individuals seen to be 'collaborators'. The popular theme at its branch and cell meetings was the overthrow of white rule by force. It also believed that the way to liberation was through a 'bloodbath'. Part of the blood to be spilt was that of black informers, spies and collaborators with the government. Hence bantustan chiefs like Mr Kaiser Matanzima also became targets. Any who questioned the legitimacy and constitutionality of certain developments could be included in the category of 'enemy agents'. While the PAC disciplinary code encouraged members to air their views "and to agree or disagree with all or any member of the movement, including the leader", there were instances where action was taken against those who disagreed openly with the leadership.
- 40 Following the events of the early 1960s, the South African government began to implement its bantustan policy. All Africans were to be stripped of South African citizenship and forced to become citizens of separate, ethnic bantustans or homelands. Ten homeland administrations were set up, although the South African security forces remained at least partially in control of security in the homelands.
- 41 The government also sought to strengthen and re-organise its security forces and security legislation. During the 1950s, the government had passed a range of security laws including the Suppression of Communism Act of 1950, the Public Safety Act of 1953, the Police Amendment Act of 1955 and the Riotous Assemblies Act of 1956. During the 1960s, the government enacted further laws to counter the influence of political organisations which had been banned by law, notably the ANC, PAC and SACP.
- 42 One of the first such acts was the Indemnity Act of 1961 which granted indemnity to police officers for acts committed in good faith. It was made retrospective to 21 March 1960 (the date of the Sharpsville and Langa massacres) and began the process of placing the police above and beyond public scrutiny.

43 The General Law Amendment Act (1962), one of many to amend the Suppression of Communism Act of 1950, built on the general premise that new security legislation was necessary to fight the perceived threat from 'Communist' organisations and Marxist ideology. During the second reading of the bill in Parliament, Minister of Justice Mr BJ Vorster noted that, considering the balance between personal liberty and the interests of the state, the state should offer protection only to the law-abiding citizen. In view of the brutal acts of sabotage that had been committed, the state now needed protection against subversion and the legislation was intended as a pre-emptive measure to maintain order and calm within the state.

44 The Act increased the government's power to declare organisations unlawful, as well as to impose a host of restrictions in the form of banning orders on designated persons. The Act also created the offence of sabotage which encompassed broad-based elements such as "wrongful and wilful" acts designed to "obstruct, injure, tamper with or destroy ... the health and safety of the public" or "the supply of water, light, power, fuel or foodstuffs". The penalties were the same as those for treason, ranging from a minimum five-year sentence to the death penalty. Further, the Act transferred the burden of proof to the accused, rather than maintaining the traditional stance that the accused was innocent until proven guilty.

45 The Act was followed by a series of measures aimed at strengthening the legal powers and effectiveness of the police as well as the powers of provincial Attorneys-General and the Minister of Justice. Simultaneously, the government curbed the ability of the judiciary to review the new security laws or to release people detained under these provisions. A further amendment to the General Law Amendment Act (1963) made provision for *incommunicado* detention for a period of ninety days. In practice, people were often released after ninety days only to be immediately re-detained for a further three-month period. This Act was later replaced by other laws providing for detention without trial – the Criminal Procedure Amendment Act of 1965, providing for a 180-day period of detention and re-detention, and the Terrorism Act of 1967, allowing for indefinite detention.

46 These laws were critical in establishing an environment of surveillance and repression in which the police were seen to be beyond public scrutiny and 'untouchable' by the judiciary.

47 In 1961, responsibility for the police was added to Justice Minister Vorster's portfolio. In 1962, he appointed Lieutenant General JM Keevy as commissioner of police and, in 1963, Hendrik van den Bergh as head of the Security Branch. According to the official history of the SAP, the three were a formidable triumvirate whose major objective was "to safeguard and protect the country."<sup>2</sup> They obtained significant increases in the police budget, a large proportion of which was absorbed by the Security Branch, which grew substantially in the 1960s.

48 A special unit, the so-called 'Sabotage Squad' was set up, drawn from the SAP's investigative section. In addition, a covert intelligence section was established as part of the Security Branch in 1963. Known as Republican Intelligence (RI), it largely ran 'informers' and aimed to penetrate the liberation and specifically the armed opposition movements. Many of the informers so recruited were journalists. Mr Gordon Winter, author of the book *Inside BOSS*, credits RI with the Rivonia bust, helping to smash Poqo, infiltrating the ARM and compiling extensive dossiers on white liberals connected to the Liberal Party. Winter was initially handled by Mr Johan Coetze and later Mr Mike Geldenhuys, both of whom were later to lead the Security Branch before going on to become commissioners of police.

49 By utilising this legislative and institutional framework, the NP government effectively put the lid on extra-parliamentary opposition by the mid-1960s. The life sentences imposed on the leadership of MK at the Rivonia trial in November 1964 marked the end of this period of internal underground resistance.

## 1965–1973: The regionalisation of conflict

50 Prior to the 1960s, the South African government saw the southern African region as an exploitable resource, a source of cheap labour and a ready market for the country's products. The continued subordination of the region could be ensured and was achieved through institutions like the Southern African Customs and Monetary Union which came into existence in the early twentieth century.

51 This attitude began to change in the early 1960s, in response to the rise of African nationalism and the steady withdrawal of the European colonial powers from the continent. NP politicians and senior security strategists began to conceptualise the region, and particularly the minority-ruled and colonial territories of Southern Rhodesia, Angola, Mozambique and South West Africa, primarily as a military buffer zone.

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<sup>2</sup> Marius de Witt Dippenaar: *The South African Police Commemorative Album*, p. 308.

52 Conversely, black opposition groups drew inspiration from the nationalist movements in other parts of Africa which had led to the independence of most former European colonies in the continent by the end of 1960. Some also became increasingly influenced by Soviet, Chinese or other models of political thought and organisation.

53 From the early 1960s, the ANC, the SACP and the PAC all established administrative headquarters outside South Africa and actively sought financial, diplomatic and military help to launch armed campaigns in South Africa. Following the Rivonia trial, the ANC established bases in exile – initially in Tanzania, later in Zambia and Angola – and began to develop fraternal links with other liberation movements.

54 By the mid-1960s, South Africa's stance towards the region was becoming more interventionist. In the SANDF's second submission on the SADF, the country's military strategy at the time was described as "defensive" but "more outward", prompted by the perception that there was now, "for the first time, the potential threat of conventional war on the northern borders of the sub-continent". The SADF's "strategy was to keep the 'defence line' as far as possible away from South Africa itself". This notion was the direct consequence of the fact that the security establishment's strategic thinking was deeply immersed in the logic of the cold war. Thus all forms of conflict and instability in Africa were seen as "avenues for Soviet involvement", with the SADF arguing that South Africa was faced with "a Soviet-backed revolutionary war".

55 Consequently, from the mid-1960s, the government undertook or authorised a number of defensive and pre-emptive operations outside of South Africa's borders. The first of these was the establishment of an SAP security police camp in the Caprivi Strip in northern South West Africa in March 1965, under the guise of an engineering company. The camp was under the command of former sabotage squad member, Major Theunis '*Rooi Rus*' Swanepoel. The role of the camp was to monitor SWAPO activity. Sixteen months later, SAP units were deployed to the area in response to SWAPO's decision to move its trained cadres into South West Africa. On 26 August 1966, SAP forces attacked SWAPO's first military base inside South West Africa at Omgulumbashe, marking the beginning of South Africa's armed intervention in the region.

56 The first armed campaigns launched by a foreign-based South African liberation movement were the Wankie and Sipolilo campaigns of 1967 and 1968. According to the ANC's second submission to the Commission, its Rhodesian campaigns were launched with the aim of "infiltrating trained MK operatives into South

Africa in line with the concept of rural-based guerrilla warfare". The idea was that MK soldiers would thus create a "corridor" along which to infiltrate guerrillas into South Africa. The campaigns were not a military success and resulted in the death and capture of a number of MK combatants.

- 57 In response to this development, SAP units were sent to Rhodesia in September 1967 to assist Rhodesian forces fighting ZIPRA (ZAPU) and MK (ANC) guerrillas in the north west of the country. In the SANDF's first submission on the SADF, it was explained that the SAP units were dispatched to Rhodesia "to fight against men who originally came from South Africa and were on their way back to commit terrorism in South Africa". By 1975, when the police contingent was withdrawn, 2 000 South African policemen were involved in combat operations inside Rhodesia.
- 58 In the period up to 1974, South African military support to Portuguese forces engaged in operations in Angola and Mozambique took the form of the supply of medicines, the pooling of intelligence information, helicopter support, some joint commando training and occasional joint commando operations. In Angola it included the secondment of a small number of experienced SADF trackers who wore Portuguese military fatigues, and were used to track UNITA fighters operating in alliance with SWAPO at that time.
- 59 In order to draw lessons from the Portuguese counter-insurgency effort, a number of the SADF's promising military strategists were appointed to 'diplomatic' posts in the two colonies. In December 1965, General Jannie Geldenhuys (later both Chief of the Army and of the SADF) was sent to Luanda as Vice Consul. According to his biography, his brief was "to study the Angola war". From 1971–75, the post was held by Major (later Major General) Marius Oelschig. After Angolan independence in 1975, Oelschig became the most senior SADF official operating in liaison with UNITA.
- 60 Similar links developed in Mozambique where SADF officers were seconded to the Portuguese regional military headquarters in Nampula from the latter 1960s. One of these was Brigadier Cornelius 'Cor' van Niekerk who was a liaison officer at Nampula in 1972/73. In 1979, he was appointed to head the Military Intelligence Division's Directorate of Special Tasks. In that capacity he was responsible for running the RENAMO operation against the Mozambican government from 1980.
- 61 According to the second submission on the SADF, the SADF began working alongside the Rhodesians and Portuguese in the region because of shared perceptions of threat. The SADF also responded to the changing regional security

scenario by initiating a study programme on ‘revolutionary war’. In the late 1960s, the SADF’s Lieutenant General CA ‘Pop’ Fraser, then chief of the army, produced his *Lessons Drawn from Past Revolutionary Wars*, which in later years became a blueprint for South Africa’s counter-revolutionary strategy. The SADF introduced formal instruction in counter-insurgency into its training in 1968; the SAP had already done so a year earlier.

- 62 In July 1969, senior security figures from the newly formed Bureau of State Security (BOSS), the Portuguese International Police for the Defence of the State (PIDE), and the Rhodesian Security Police met in Lisbon for a week of talks designed to bring about closer collaboration in their counter-insurgency efforts. Several further such tripartite meetings were held in the next five years, coinciding with the development by the SADF of a high-level think-tank focusing on strategic options in the region. Senior Rhodesian officers also participated in the project.
- 63 In the 1970s, the SADF actively propagated its views on counter-insurgency throughout the state sector through courses and lectures to groups from both the security and non-security sections of the public service. It was in this period, too, that General Jannie Geldenhuys introduced the military to the ideas of the American security theorist, JJ McCuen. Further US influence was evident in the co-operation between the security forces and the Central Intelligence Agency (CIA), which considered South Africa a local ally against the Soviet Union. Examples include the role of the CIA in providing information which led to the capture of Nelson Mandela in 1962, as well as training given to General van den Bergh prior to the creation of BOSS.
- 64 Counter-insurgency spoke of ‘national security’ rather than ‘defence of national territory’, thus drawing political conflict into the domain of the security establishment. A successful counter-strategy was seen as being dependent on accurately recognising the particular stage of development of the insurgency war and arresting its development by instituting a counter-phase. The theorists on whom the South African securocrats drew stressed the need for a co-ordinated and organised counter-offensive involving the police, the military and bureaucracy.
- 65 The South African government drew on Cold War theories to argue that its opposition to local liberation movements with Soviet sympathies or links was part of the same battle that the US and Western Europe were waging against Eastern Europe and the USSR.

66 A few years after the Wankie campaign, the South African security forces began to develop a strategy of clandestine warfare, later known as destabilisation. Although this was widely acknowledged as a policy in the 1980s, there is evidence that it had its origins in a much earlier period. Most of the evidence concerns *Operation Platford*.

### ***Operation Platford***

67 *Operation Platford*, a joint BOSS and SADF operation, involved the training of a surrogate force of Zambians for operations against the government of President Kaunda, the ANC's most important backer in Africa. Under the command of the head of South Africa's first special forces unit, Colonel Jannie Breytenbach, this operation is said to have trained some 200 Zambians for destabilisation operations inside Zambia. It was abandoned in 1973 or 1974, when President Kaunda made public allegations of South African interference in Zambian affairs.

68 Information about *Platford* was given to the Commission by a former member of BOSS, Mr Mike Kuhn. The SADF nodal point informed the Commission that it had no knowledge of any project code-named *Platford*.

69 Some evidence to back Kuhn's claims is found in Jannie Breytenbach's book, *Eden's Exiles: One Soldier's Fight for Paradise* (1997). Breytenbach reveals that, in 1971, he was given a mission "to train a hundred guerrillas as a nucleus around which a bigger irregular force could be built. Everything was to be done in utmost secrecy". Whilst he does not state that those being trained were Zambians, he writes that, as part of the training, operations were carried out in south-western Zambia "where small groups from our base would harass SWAPO bases and Zambian army garrisons which gave them support".

70 In June 1974, the journal *X-Ray on Southern Africa* (IV, 9) published by the Africa Bureau in London reported that the SADF had been training a force of dissident Zambians in the Caprivi with the objective of toppling the Zambian government. The report was largely based on two court cases in which Zambians were charged with actions related to the training of Zambians in the Caprivi.

71 In a report prepared in 1989 by the Southern African Research and Documentation Centre (SARDC) in Harare for the Commonwealth Committee of Foreign Ministers and published under the title *Apartheid Terrorism: The Destabilisation Report*, the point is made that Namibia, and particularly the SADF bases in the Caprivi, had been used from the mid-1960s as a "springboard for ... incursions into Zambia".

72 While it has not been possible to obtain definite corroboration of Kuhn's claims regarding *Operation Platthond*, there is much stronger evidence of South African involvement in the creation of a Zambian dissident force during the 1980s, in the form of the Mushala Gang. What is significant about this Zambian case is that it pre-dates by several years the conventional wisdom as to when surrogates like UNITA, RENAMO and the Lesotho Liberation Army (LLA) became key components of South Africa's regional counter-mobilisation strategy.

73 The security establishment was further restructured with the creation in 1968 (retroactively legislated in 1969) of the Bureau of State Security (BOSS), a 'super-security' structure to which both the security police and military intelligence were required to submit intelligence on an ongoing basis. Appointed to head the agency was the special security adviser to Prime Minister Vorster, General Hendrik van den Bergh.

74 Whilst BOSS's supremacy as an intelligence-gathering and assessment agency has never been in doubt, there has been much speculation as to whether BOSS also possessed an operational capacity in the form of the 'Z-squad'. A former senior National Intelligence Service (NIS) counter-intelligence operative confirmed in a briefing to the Commission that a covert Z division did exist, but asserted that it had never been involved in the elimination of political opponents. An interview with one of the alleged few surviving members of this division also confirmed its existence and its involvement in *Operation Platthond*, in the rehousing of former PIDE officers and agents in South Africa following Mozambican and Angolan independence, and subsequently in covert intelligence collection in southern Africa. Other claims have been made that Z division specialised in interrogating South Africans who had been captured fighting alongside nationalist guerrillas in Rhodesia and Mozambique. Some of those interrogated were later killed.

75 Appearing before the Erasmus Commission of Inquiry into the so-called 'Infogate' scandal in the late 1970s, General van den Bergh hinted that his department had an operational capacity and that murder was not beyond its line of duty:

*I am able with my department to do the impossible ... I can today tell you here, not for your records, but I can tell you, I have enough men to commit murder if I tell them, kill ...*

76 Two amnesty applications revealed that members of the South African security forces were engaging in targeted assassinations at the time of BOSS's early existence. Brigadier WAL du Toit [AM5184/97] applied for amnesty for the production of

explosive devices intended for unknown victims in 1969 and 1970, and Brigadier Willem Schoon [AM4396/96] for the abduction, arrest and killing of two ANC combatants in Zeerust in July 1972.

77 By the end of the 1960s, the SAP and the SADF, backed by powerful ministers, had both undergone processes of expansion and re-organisation, with the result that the security-related structures had moved from the margins of the state to its very centre. This move was symbolised Mr BJ Vorster's accession to power following Dr Hendrik Verwoerd's assassination in 1966. The transition had not come about without conflict and without a significant degree of rivalry between the different members of the security establishment. The tensions were greatly exacerbated by the establishment of BOSS and the near 'untouchable' status that General van den Bergh enjoyed.

78 One consequence of these tensions was the appointment in 1969 of the Potgieter Commission. The report spoke, for the first time, the language of a 'total onslaught'. It resulted in the establishment of the State Security Council (SSC) to replace the old Cabinet State Security Committee. In terms of the Security Intelligence and State Security Council Act of 1972, this council was to play an advisory role to cabinet in respect of intelligence priorities, security policy and strategy.

79 In 1969, the ANC held its first general conference since its establishment in exile. The conference, held in Morogoro, Tanzania, adopted a new programme called "Strategy and Tactics of the ANC". The problems experienced in Rhodesia had led the ANC to realise that military success was unlikely to be a rapid process, and that the Cuban 'foci' model was not applicable in South Africa. The strategy document thus detailed the strategic need for a "protracted armed struggle" depending on "political mobilisation". According to the ANC's first submission to the Commission:

*A decision was made to shift the ANC's approach from sending armed groups of cadres into the country to 'spark off' guerrilla warfare, and instead emphasised that ... [it] was necessary first to extend and consolidate an ANC underground machinery and to generally mobilise the people, especially the black working population, into active mass struggle ...*

80 A Revolutionary Council was established to co-ordinate military and political work. A formal alliance between the ANC and the SACP was announced, with members of the Revolutionary Council drawn from both bodies.

## **1974–1978: The collapse of the buffer and the re-emergence of internal opposition**

- 81 After the crushing of the liberation movements in the early 1960s, there was a period of relative calm in resistance politics inside South Africa. Simultaneously, workers' organisations began to emerge from the early 1970s. Their presence and impact was felt in the Durban strikes of 1973, and later in the formation of the independent black trade union movement. In the late 1960s, the South African Students Organisation (SASO) and other organisations influenced by the ideology of Black Consciousness began to emerge. This came about due to growing disaffection by some black student activists with the National Union of South African Students (NUSAS) and the leadership composition of the University Christian Movement (UCM). This mobilisation culminated in country-wide mass resistance in the 1976–77 period, popularly known as the 'Soweto uprising'.
- 82 The uprising, though largely spontaneous, was of tremendous political significance. It contributed to the reconstitution of mass extra-parliamentary politics in South Africa and helped revitalise the exiled liberation movements. Moreover, it stimulated a rethink on the part of big business as to how their interests were to be best safeguarded, and impelled the state to engage in extensive restructuring of institutions, past policies and practices.
- 83 The most obvious threat to South Africa's regional security, however, came from developments abroad. Most notable was the collapse of the Portuguese dictatorship that opened the way to independence for its Southern African colonies, Mozambique and Angola. According to the first submission on the SADF: "The unexpected coup in Portugal on 25 April 1974 brought the RSA's defence line to its borders and this changed the government's perceptions of security in a very dramatic way".
- 84 Inside South Africa, the liberation of these countries inspired the resistance movement, which held celebration rallies in their honour. Indeed, the collapse of the buffer surrounding South Africa opened up new possibilities for the liberation movements. By the time of Mozambique's independence in June 1975, the ANC had established a sizeable diplomatic presence in Maputo and it was clear that the new FRELIMO government would allow MK guerrillas transit facilities to both Swaziland and South Africa. By this time too, senior ANC figures like Mr Thabo Mbeki, Mr Jacob Zuma and Mr Albert Dlomo were in Swaziland, resuscitating the ANC's political presence and re-establishing links to the ANC underground inside South Africa. By 1976, a reliable 'underground railway' had been established between Swaziland and both the Durban and Witwatersrand areas.

85 The Central Committee of the PAC, weakened by internal struggles in the early 1970s, met in 1975 and resolved to work together towards the “final push” of the struggle. Members of the High Command were dispatched to the front-line states to prepare an underground trail for the infiltration of arms and guerrillas into the country.

86 By the mid-1970s, the PAC had begun military training amongst refugees in Swaziland. The refugees had fled a chieftaincy dispute amongst the Mgomezulu clan of northern KwaZulu and had been allocated land in the area. However, in 1977 the Swaziland government suddenly moved against the PAC by banning the organisation in Swaziland and rounding up all its known members and supporters. All were eventually deported via the United High Commission for Refugees (UNHCR) to countries other than South Africa, in some cases after lengthy periods in detention.

87 On South Africa’s western flank, SWAPO had by this time opened a diplomatic mission in Luanda and had been given permission to establish military training bases, transit camps and refugee camps in central and southern Angola.

88 The government responded in a way that suggests that the previous domination of state security policy by the SAP and BOSS was on the wane while that of the SADF, in particular with regard to external military policy, was becoming increasingly influential. This was reflected at a number of levels. Firstly, in 1975 the SADF took over the SAP’s previous responsibility for counter-insurgency operations in the border areas of northern Namibia. Secondly, it appeared that the government was preparing to become involved in the conflict that developed in Angola after the collapse of the agreement signed by the three Angolan liberation groups in January 1975.

89 The next critical development was the occupation by the SADF of Calueque in southern Angola in August 1975. The immediate aim was the protection of the joint South African–Portuguese funded Calueque–Ruacana hydro-electric scheme but a general aim, according to the second submission on the SADF, was to counter “further Soviet-led expansion in the region”. As it turned out, the move into Calueque formed the initial phase of *Operation Savannah*, the SADF’s secret invasion of Angola in 1975.

90 The failure of *Savannah* held three important lessons for the SADF.

- a First, it exposed the SADF's urgent need to update its weapons systems which, according to the SANDF submission on the SADF, "led to major developments in the armaments industry in South Africa over the next decade". One of these was the launch in 1980 of *Project Coast*, the SADF's chemical and biological weapons programme.
- b Second, it impressed upon the SADF the need for and utility of surrogate forces as allies. With UNITA regarded as "one of the few remaining buffers against further East bloc expansion in Southern Africa", it now became integrated as a central component into the SADF's military strategy on its western flank. Assistance took effect on 1 April 1977 with the launch of *Operation Silwer*, the codename by which aid to UNITA was referred until 1983, when it was changed to *Operation Disa*.
- c Third, it made the SADF aware of a need for increased "intelligence, reconnaissance and a wide spectrum of covert capabilities". In order to meet this demand it was essential "to continue with the development of its special forces and their covert and clandestine capability". In October 1974, a Special Forces division was set up as a separate and autonomous arm of the SADF with its command structure headed by a general officer commanding (GOC) reporting directly to the chief of the SADF.

- 91 By the time of the SADF's intervention in Angola in 1975, a third arm of Special Forces had been created in the form of 5 Reconnaissance Regiment into which some 500–600 former members of the Portuguese military in Mozambique had been integrated. These were largely specialists in landward and airborne counter-revolutionary warfare. After *Savannah*, and to incorporate some 1 600–1 800 Portuguese-speaking former members of the defeated Angolan army, a specialist unit of the army, Battalion 32 (the so-called 'Buffalo Battalion'), was established. Headed by Colonel Jannie Breytenbach, this unit grew in time to number as many as 9 000 troops.
- 92 Thirty-two Battalion was, in fact, the second such special army unit formed by the SADF. In 1974, it had formed a special tracking unit composed of white officers and !Xu or 'Bushmen', many of whom, according to testimony presented to the Commission, were forcibly recruited into the SADF. This unit was Battalion 31 (originally 201), often also called the 'Bushman Battalion'. Its headquarters were at the Omega camp in the Caprivi, close to the border of Zambia.

93 Another essentially ethnic unit was 101 Battalion, also known as the 'Owambo Battalion'. This seems, in the eyes of the SADF, to have been an highly effective outfit. In the SADF's *1986 Yearbook*, 101 is described as:

*the reaction force of Sector 10 (Kaokoland and Owambo with headquarters in Oshakati) and is a force without equal. It accounted for many of the terrorists eliminated by the Security Forces during 1986, and had the best combat record of all SWA and RSA units during the year.*

94 In 1978 the 44th Parachute Brigade was formed, as well as 4 Reconnaissance Regiment, a seaborne Special Forces unit based at Saldanha Bay.

### ***The San and Battalion 31***

95 The information below is drawn from a submission to the Commission by the *!Xu & Khwe Vereeniging vir Gemeenskaplike Eiendom* (the !Xu and Khwe Union for Common Property/Ownership). The submission suggests that the bulk of the approximately 350 !Xu and Khwe were forcibly recruited into 31 Battalion. One of the !Xu leaders, Mr Agostinho Victorino, is quoted as saying they were given two choices by the South African military – "either join the army or we'll bomb your villages". The submission also suggests that, within the battalion, the trackers were subjected to a regime of harsh discipline and that dissent was dealt with ruthlessly.

96 Two examples of the latter are cited in the submission. The first relates to an alleged attempted mutiny by twenty-seven members of 31 Battalion during an operation in Zambia in October 1979. It draws on the evidence of a national serviceman present at the time in the Caprivi:

*After they were found guilty the SADF sent them to UNITA headquarters in southern Angola. Their women and children were collected at Omega base in Caprivi and reunited with the men. We never saw them again. On their return, horrified drivers said they witnessed how the men, women and children were killed by black Portuguese-speaking soldiers who slit their throats with knives.*

97 The submission also includes statements taken from the wives and relatives of four !Xu killed in a separate incident in 1979. Ms Joachina Dala, wife of murdered soldier Paulino Dala stated that:

*The men were beating him up and made him suffer. We just sat and had to watch. I cannot describe what we had to witness. We were crying all the time but the soldiers didn't care ... My husband's eyes were beaten shut and he was covered in blood ... when the white troops left they waved at us and shouted 'viva'. My husband was first beaten to death and then shot. They dug a hole and put him in there and covered him with sand.*

- 98 In 1975, the SAP established an elite anti-terrorist unit known as Unit 19 or the Special Task Force. The Special Task Force played an important role in the training of the police Riot Units established at more or less the same time. Based in several centres around the country, its recruits were drawn largely from those with counter-insurgency training. Thus, for example, Colonel Theunis 'Rooi Rus' Swanepoel, veteran of the sabotage squad and Ongulumbashe, was drafted into Soweto on 16 June 1976 to command a riot unit which was responsible for a high number of civilian casualties. Interviewed in the 1980s about the operations of his unit in Soweto, he stated that he regretted only not using more force. "You can only stop violence by using a greater amount of violence".
- 99 The security police, severely criticised for their poor intelligence and thus lack of forewarning regarding the Soweto uprising, also underwent a process of expansion and reorganisation. The Security Branch continued to play a role in South West Africa, despite the fact that the SADF had assumed control of the war. 1976 saw the beginning of Security Branch special operations under the codename 'K', which later developed into Koevoet.
- 100 Security legislation underwent a process of consolidation with the passing of the Internal Security Amendment Act, effectively rationalising five other security acts. In response to public pressure to the sharp rise of deaths in detention during the 1976/77 period, the detention provisions of the Act required the State President to appoint a review committee to assess detainees' custody at intervals of not more than six months.
- 101 This period also saw independence being granted to the first homeland government – Transkei – and a number of other homelands acquiring greater autonomy, although they remained wholly financially dependent on South Africa. These developments also resulted in the creation of homeland police forces and, in the case of independent homelands, defence forces. Such security structures continued to be run by seconded South African security force personnel; structures and legislation mirrored South African models. However, limited oppositional structures, a weak civil society,

and little national or international media interest meant that homeland security structures operated with far less restraint than the South African security forces.

- 102 The liberation movements did not play a military role in the events that began on 6 June 1976. Although a limited number of ANC underground activists attempted to give some direction through the spread of propaganda, the youth involved in these events were influenced by Black Consciousness ideology on the one hand, while responding to genuine grievances on the other. The ANC did, however, benefit from the events of 1976 and 1977, as it was the only liberation movement able to absorb, train, educate and direct the thousands of youth who left South Africa as a direct result of these events. MK established its second battalion from these new recruits, who were sent to Angola for training in the newly established bases there.
- 103 In addition to military camps in Angola, the ANC developed residential centres in Tanzania and had a diplomatic presence in many countries. In 1979, it established a Department of Intelligence and Security (DIS). This body, together with the military headquarters of MK, controlled the Angolan camps – including a special camp established to hold ‘dissidents’, known as Camp 32 or the Morris Seabelo Rehabilitation Centre (popularly known as Quatro).
- 104 The PAC claims in its submission to be at least partially responsible for the Soweto uprising in 1976. Mr Zephaniah Mothopeng, at the time an “internal leadership member of the banned PAC”, was tried with seventeen others in the Bethal 18 ‘secret trial’ for their role in “fermenting revolution” and for “being behind the Soweto uprising”. Mothopeng and others were jailed for their alleged involvement.
- 105 These internal events together with events in the sub-region formed the backdrop for a series of shifts both in state policy and in oppositional politics in the second half of the 1970s. For a variety of reasons – the improved organisation of the SADF, Mr PW Botha’s expertise in building empires and the SAP’s inability to deal effectively with the 1976 uprising – PW Botha possessed a far stronger power base than Prime Minister Vorster. Moreover, the notion that South Africa was facing a ‘total onslaught’ was gaining greater acceptance within government circles. Two influential reviews, the Venter Report in 1974 and the Van Dalsen Report in 1977, began to put forward the need for a co-ordinated national security management strategy to cope with this onslaught. The first public airing of this developing strategy was in the 1977 Defence White Paper.

106 Within the security establishment, the growing influence of the military was evident in the rise to power of PW Botha. Through a series of manoeuvres involving the intelligence structures of the SADF, information about the Department of Information was leaked to the press, precipitating the ‘Infogate’ scandal<sup>3</sup> and the demise of both Vorster and Van den Bergh. On 28 September 1978, PW Botha became Prime Minister and moved rapidly to implement a policy soon dubbed the ‘total strategy’.

107 The late 1970s saw a regrouping following the bannings of Black Consciousness organisations in 1977 and the growth of independent black trade unions. It also saw the emergence of local community organisations involved in mass mobilisation and campaigns on basic issues such as housing, rents, electricity, and transport. These structures initially adopted a strategically low political profile, while more explicitly political organisations such as the Azanian People’s Organisation (AZAPO) and student organisations such as Azanian Students’ Organisation (AZASO) and the Congress of South African Students (COSAS) articulated a more strongly political perspective. Rivalry and conflict developed, however, between activists aligning themselves with Black Consciousness and those increasingly supportive of the ANC.

### **1979–1984: The ‘total strategy’, regional destabilisation and resistance**

108 ‘Total strategy’ was based on the premise that South Africa was the object of a total onslaught, supported or even co-ordinated by the Soviet Union. The objective of this onslaught was to overthrow the government of South Africa. In a graphic illustration of this, at a briefing to the Commission, a former secretary of the SSC described a scene in the government’s operations room in the 1980s. A large map filled the wall. A series of markers and labels linked activists in a local township to larger co-ordinating structures nationally. From there a line was drawn linking exile structures in Lusaka to the offices of the KGB in Moscow.

109 The government understood the onslaught as being in the tradition of guerrilla warfare. This type of warfare is characterised by the relative unimportance of military operations in the sense of combat operations carried out against opposing armed forces. Rather, the aim of the revolutionary forces is to gain control of government by gaining the support of the people through a combination of intimidation, persuasion and propaganda.

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<sup>3</sup> The Department of Information had been engaged in a massive and extremely costly propaganda drive both inside and outside the country, attended by instances of self-enrichment and corruption.

110 The Botha government's riposte was a 'total strategy' of counter-revolution, in which every sphere of government activity was to be co-ordinated so as to prevent the perceived revolutionary onslaught from succeeding. The task of the armed forces was to prevent the enemy – chiefly the ANC-SACP alliance, but also the PAC and others – from establishing a viable rear-base outside South Africa while, in its domestic operations, the government developed the necessary political initiatives to win the support of the population, thus enabling it to survive the revolutionary onslaught.

111 There were four main pillars to the 'total strategy':

- a the maintenance of state security at all costs;
- b reform of the political environment;
- c efficient and 'clean' government;
- d the co-ordination of all state action.

112 The importance of a 'total strategy' was underlined by developments within the ANC. A joint meeting of the ANC's National Executive Committee and Revolutionary Council received a report from senior members of the ANC, the SACP and MK who had undertaken a study tour of Vietnam in October 1978 as part of a strategic review. The delegation had spent some time with General Giap, the architect of victories over both French colonial and US forces. Based on insights gained on this mission, the ANC/MK decided on an adaptation to its insurgency strategy.

113 Abandoning an earlier emphasis on rural guerrilla warfare, the strategy aimed now at integrating political and military activity, while attributing particular importance to urban areas. A Politico-Military Strategy Commission consisting of Mr Oliver Tambo, Mr Thabo Mbeki, Mr Joe Slovo, Mr Moses Mabhida, Mr Joe Gqabi and Mr Joe Modise was established to oversee the new strategic direction and, in 1979, a Special Operations Unit was formed which reported directly to the ANC president.

114 Militarily, a campaign of 'armed propaganda' attacks by a specially-trained elite unit ('Special Ops') was designed less for immediate military effect than to advertise the existence of MK and to win publicity and support. This was to lead to a general uprising or, to use the idiom of the time, a 'people's war'.

115 The 'lessons from Vietnam' were contained in a report which became known as *The Green Book*, finalised in March 1979. It envisaged a strategy involving the

escalation of armed attacks combined with the building of mass organisations. A strengthened underground movement inside the country would provide the link between the two. However, while underground political units of the ANC began to organise around some of the above aims, the military imperative remained the focus of ANC strategy in this period. At that time, the PAC was beset by splits and internal problems.

- 116 It was largely in response to the ANC/SACP mission to Vietnam, and the subsequent strategy overhaul, that Mr PW Botha convened an elite gathering of high-ranking cabinet ministers and security officials at Fort Klapperkop. Those attending the Fort Klapperkop conference included Mr Pik Botha, General Magnus Malan, Mr Gerrit Viljoen, Generals Jannie Geldenhuys and Johan Coetzee, and a General D'Almeida, a visitor from Argentina.
- 117 D'Almeida's presence reflected an emerging alliance between South Africa and a set of allies of 'pariah' status internationally and with a reputation for ruthlessness, involving the use of violence and terror, towards their opponents. With Argentina in this group were Chile, Israel and Taiwan, all of whom had in recent years entered into some form of security co-operation with Pretoria.
- 118 Co-operation with Argentina continued. SAP commissioner, General Mike Geldenhuys, and some of his senior officers, including Brigadier Albertus Wandrag, head of the Riot Unit visited both Argentina and Chile in 1982. These trips led to mutual visits and agreements on the exchange of information. In May/June 1982, the British journal X-Ray reported "there was growing evidence of the use of new forms of torture in South Africa, which are known to have been used in Argentina".
- 119 One of the major decisions of the Klapperkop Conference was to authorise the military's Special Forces units to undertake counter-guerrilla operations outside of the country in order to prevent MK from developing rear-bases within striking distance of South Africa and, consequently, an effective logistical network.
- 120 General Magnus Malan, chief of the SADF and, from 1980, Minister of Defence, was first exposed to the theories of counter-insurgency in the United States where he completed the regular command and general staff officer's course in 1962–63. As officer commanding of South West Africa Command from 1966–68, he acquired first-hand experience of a war conducted largely on the principles of counter-insurgency. During his tenure as chief of the army (1973–76), a series of joint inter-departmental counter-insurgency committees was established to

help manage the war in Namibia, creating a model for the National Security Management System (NSMS).

- 121 In August 1979, the establishment of the NSMS was officially announced. It strengthened the SSC through the appointment of a permanent secretary and the establishment of a full-time Secretariat and Working Group and rationalised cabinet committees to four; namely, the Cabinet Committees on Constitutional Affairs, Economic Affairs, Social Affairs and Security. The latter, the Cabinet Committee on Security, was the already existent SSC and sat at the pinnacle of the NSMS. Later, the NSMS was divided into two arms – a Security Management System and a Welfare Management System. The former was headed by the SSC while the latter was headed by the remaining three cabinet committees (Constitutional Affairs, Economic Affairs and Social Affairs). In the mid-1980s these two systems were integrated into a National Co-ordinating Committee.
- 122 The SSC was the policy and decision-making body of the NSMS. It was assisted by a Work Group and between twelve and fifteen Interdepartmental Committees (IDCs). Decisions taken at the fortnightly SSC meetings were sent to the heads of the respective departments for implementation. From 1979 onwards, some 500 regional, district and local Joint Management Centres were put into place, theoretically enabling a co-ordinated security system to reach from the highest level to the smallest locality. The first national strategy of the SSC, known as *Boek 1/Beleid: Die RSA se Belange en die RSA-Regering se Doel, Doelstellings en Beleid*<sup>4</sup> was approved by cabinet in March 1980.
- 123 The establishment of the NSMS was followed by a related restructuring of the intelligence services – an outcome of the Klapperkop Conference and an accompanying initiative, the Coetze Committee. A conference held at Simonstown in January 1981 focused, inter alia, on the establishment of a co-ordinating intelligence body known by its Afrikaans acronym as KIK (the Co-ordinating Intelligence Committee). The conference also looked at the areas of responsibility of the various structures. The result was a division of labour between the police and the military. In regard to extra-South African territories, Swaziland was assigned to the SAP while the rest of the world, but more particularly the region, became an SADF responsibility. The agreement also made provision for joint SAP-SADF operations. As a consequence, the powers of the NIS (the reconstituted BOSS) were considerably reduced, while those of the SADF substantially increased.

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<sup>4</sup> Book 1/ Policy: The RSA's Interests and the RSA Government's Aims, Objectives and Policy.

124 In 1979, the Vlakplaas unit was established under section C of the Security Branch. It was originally a rehabilitation farm where former ANC and PAC activists were 'turned' into police informers, known as *askaris*. Other branches of the security police could call on the *askaris* to infiltrate ANC activists and glean information. In August 1981, several white policemen were transferred to the unit and the *askaris* were divided into four groups, each headed by a white policeman. By the end of 1982, Vlakplaas operatives were increasingly becoming the 'special forces' of the Security Branch. Vlakplaas, and more broadly the C Section, also worked closely with the SADF – indeed, for significant periods, an SADF liaison officer was assigned to work full-time with Vlakplaas. To a large extent, Vlakplaas owed its existence to the SAP's experience first with the Selous Scouts in Rhodesia and then with setting up Koevoet in South West Africa.

125 In 1978, MK began attacks in the PWV (Pretoria, Witwatersrand and Vereeniging region) and western Transvaal. The Special Operations Unit engaged in some successful acts of economic sabotage (such as Sasol II) in the early 1980s. These had the additional strategic aim of raising the profile of MK among the general public. It was largely in anticipation of the growth of such campaigns from outside the country that the state began planning pre-emptive action in the form of what became generally known as destabilisation.

126 In February 1979 the SSC adopted the *SSC Guidelines for a Long-term National Strategy in regard to Self-defence Actions*. The preamble to the document noted that, while international law made provision for a state to undertake self-defence actions in order to protect its territorial integrity, not all the actions proposed in this document could readily be brought under the juridical concept of 'self-defence actions' and that some of the operations proposed would necessarily be clandestine.

127 The five types of operations proposed and adopted were:

- Planned operations: actions against bases on foreign territory undertaken on the basis of long-term planning.
- Hot pursuit operations: actions permissible if
  - the state whose territory was to be entered was either unwilling or unable to act against those being pursued;
  - the goal of the operation was the capture and arraignment of the person or persons being pursued before the courts of the state executing the action;
  - violence or force was to be used only where those pursued resisted arrest and only directed against those being pursued.

The Commission received considerable evidence of abductions from foreign territories of real or perceived opponents of the South African government. None of these, however, conform fully, or even nearly, to the prescribed requisites of the 'hakkejag' variety. They were rather carefully planned, clandestine kidnapping raids either by the security police or their Vlakplaas unit, and the fate of those abducted was more often to be killed or forced into becoming an *askari* than to appear in court. The one exception was Mr Ismail Ebrahim who, after his kidnapping from Swaziland in 1986, was eventually tried and convicted of treason.

- c Reconnaissance operations: top-secret operations undertaken in order to acquire intelligence on planned enemy actions.
- d Clandestine operations: similarly top-secret operations which were unrestricted.
- e Arresting actions: involving police crossing a border for distances of up to approximately one kilometre for the purpose of arresting the criminal elements whom they were following.

128 By 1979, the SSC was clearly geared up to take the fight to the 'enemy' and to confront it in its regional strongholds rather than wait for it to penetrate the South African interior. The priorities at this point were the outer-periphery states of Angola, Rhodesia and the eastern front of Mozambique and Swaziland which, in the words of an SADF general, was "leaking like a sieve".

129 The late 1970s saw the internal emergence of both black trade unions and a range of student and community based structures. Within these structures, some owed allegiance to black consciousness, while an increasing number of activists within such structures began to move towards support for the ANC or 'Congress tradition'. While the development of internal structures was broadly in line with ANC policy as expressed in the *Green Book*, and key activists strengthened links with the banned movement, such structures seem to have developed rather from an increasingly politicised climate and around specific local demands. Indeed, the banning of Black Consciousness organisations in 1977 had further restricted free political space, and activists responded to this by organising in communities around local 'bread and butter' issues. During the late 1970s, the divide between the Black Consciousness and Congress movements was neither wide nor rigid and was straddled by many individuals and organisations. Only in the early 1980s would conflicts around principles and strategies cement and harden.

130 During 1982–83 the government introduced new constitutional proposals which sought to incorporate Indian and coloured people as junior partners in political decision-making. In addition, two bills were introduced which proposed new measures to regulate the presence of Africans in cities. The Black Local Authorities Act of 1982 gave a range of new powers and responsibilities to the highly unpopular and frequently corrupt township governments. In order to protest and frustrate these new state initiatives, and also as an indicator of the schism within anti-apartheid politics, anti-apartheid organisations launched two separate national formations in 1983. One was the United Democratic Front (UDF) – comprising over 500 decentralised, local and regional civic, youth, women's, political and religious anti-apartheid organisations, together with national student organisations and trade unions. The other was the smaller National Forum, a loose association of some 200 Black Consciousness-oriented organisations and small left-wing groups.

131 Although the UDF had co-ordinating structures at national and regional levels, affiliate organisations retained their autonomy in terms of policies and programmes of action. Office-bearers were required to be accountable to the membership of their affiliate organisation. In its submission to the Commission, the former UDF leadership conceded that, by the mid-1980s, the UDF was consulting with the ANC in exile.

132 From its establishment, the UDF vehemently challenged the government and its apartheid policies. As a driving force behind resistance politics in the 1980s, the UDF spearheaded a number of campaigns aimed at mobilising the broader population. While the UDF itself never adopted a strategy involving the use of violence, in the context of heightened mass resistance following 1984, such campaigns were increasingly associated with violence at a local level. Targets of such violence included community councillors, black policemen, those who broke boycotts and groups such as Inkatha.

133 There were a few ANC acts of sabotage in this period that resulted in civilian casualties, such as the Goch Street shooting in 1977. For the most part, however, MK operations in this period did not lead to civilian casualties.

134 While such armed attacks continued to raise the profile of the ANC, individual members of ANC underground political units played a crucial role in the formation of mass organisations such as COSAS, civic structures and militant trade unions that were to unite under the banner of the UDF and the Congress of South African Trade Unions (COSATU). Such mass organisations formed one of the 'four pillars'

of struggle, which together constituted the ANC's strategy for the liberation of South Africa. These four pillars were: the armed operations of MK, the building of mass organisations, the building of an underground movement inside South Africa to provide the link between the two, and the campaign for the international isolation of the South African government.

- 135 During its life-span, the UDF went through states of emergency, mass detentions of its members and leadership, and victimisation of its leaders, mainly by state surrogate forces. The state tightened its laws, and banned the UDF and many of its affiliates in 1988. During that process, UDF supporters clashed with several other oppositional groupings and vigilante forces, some of which were state sponsored. In the late 1980s, together with COSATU and other sympathetic non-aligned organisations, they formed a loose coalition termed the Mass Democratic Movement (popularly known as the MDM). The UDF organisations worked with the ANC after the unbanning of the latter in 1990. The UDF was formally disbanded on its eighth anniversary in August 1991.
- 136 In May 1983, MK exploded a car bomb in Pretoria's Church Street. Nineteen people were killed and 217 injured. The incident is identified by many security force members as the moment at which they realised the significance of the threat facing them and began to see the ANC as a 'terrorist organisation'. In addition to such armed actions, the first of a number of planned assassinations of individuals labelled as 'enemy agents' or 'collaborators' took place in this period.
- 137 Two months after the Church Street bomb, the SSC held a three-day meeting in the operational area of South West Africa where it reviewed the security situation in the region. In an intelligence briefing at the start of the meeting, SSC secretary Major General Groenewald noted that, with the help of the SADF, UNITA's troop strength had reached 36 000 and was growing by 2 400 per year. However, in regard to Mozambique, he noted that if FRELIMO succeeded in overcoming RENAMO, the Soviet Union's hold on the African east coast would be strengthened and the spread of its influence to the landlocked states of Southern Africa facilitated; so too would the establishment of ANC bases in Mozambique, Zimbabwe, Botswana and Lesotho.
- 138 To counter the threat, the SSC agreed that 'terrorism' had to be fought beyond South Africa's borders; that, with or without the co-operation of neighbouring governments, proactive and defensive operations against South Africa's enemies, their supporters and their hosts must be undertaken; and that South Africa had

to develop the capacity to destroy/neutralise 'terrorist concentrations' and their headquarters, as well as foreign troop concentrations such as the Cuban presence in Angola. The proposed options included the encouragement of internal conflict in other countries to the extent of active support for a change of government in a country like Lesotho, as well as continuing to promote instability in Zimbabwe – '*dat die pot van interne konflik in Zimbabwe subtel aan die kook gehou word*' ([so] that the pot of internal conflict in Zimbabwe is subtly kept on the boil).

139 The kinds of operations undertaken by the security forces in the light of the 1979 guidelines and the 1983 priorities, and gross human rights violations which resulted from such operations are examined in this volume.

### **1985–1989: The war comes home**

140 By the end of 1984, the government appeared to have believed that it had turned the corner. The signing of the Nkomati Accord and a similar earlier negotiated agreement with Swaziland, together with the considerable success of the Security Branch's anti-terrorist units, held out the promise that MK's supply and infiltration routes had been severely compromised if not totally cut off. The Tricameral system, albeit widely rejected, was in place and unrest was still relatively localised. Moreover, the decision in August 1984 to deploy the army in the townships strengthened the capacity of the security forces on the ground.

141 However, by the second half of 1985, unrest had spread throughout South Africa. Whereas previously unrest had occurred sporadically in the homelands and in the rural areas, in the post-1985 period it became more sustained. The widespread demonstrations and more violent forms of dissent and opposition which began in the Vaal Triangle in August 1984 surprised not only the government, but also the ANC.

142 At its Kabwe Conference in 1985, the ANC formulated a strategic response which it hoped would enable it to capitalise on the 'popular revolt' and turn it into a people's war, possibly even an insurrection. However, the Kabwe Conference had to deal with other problems. These included the dissatisfaction of the many trained MK combatants who had been kept in camps in Angola, and could not be deployed inside the country because of logistic problems.

143 While the ANC, with hindsight, claims credit for the development of the strategy of people's war and 'rendering the country ungovernable', and the security police

argue similarly that the ANC was behind the violence which prevailed, there are two important caveats to this interpretation. The first is that the ANC was responding to violence which had already erupted and was spreading largely spontaneously around the country. The pamphlet released on 25 April 1985, calling on people to "Make apartheid unworkable! Make the country ungovernable!" was an attempt to keep up with the rising militancy in the townships. The second is that the ANC's Kabwe conference was called primarily in response to the dissatisfaction of its soldiers in the Angolan camps and the mutinies of 1984. In the event, the 'uprising' gave the Kabwe conference strategic focus, and the problems of the camps were not given much time.

- 144 The military operations of MK in this period can be categorised as follows: Firstly, there were bomb attacks on urban targets. The targets selected were meant to be security force related, but the reality is that more civilians than security force personnel were killed in such explosions. The reasons included technical incompetence, faulty devices, poor reconnaissance and poor judgement or misunderstanding by operatives. In addition, there was some deliberate 'blurring of the lines' which gave operatives the leeway to vent their anger by placing bombs in targets that were not strictly military. Lastly, there were instances when explosives were tampered with or security force infiltration resulted in civilian deaths.
- 145 The second type of military operation was the 'landmine campaign' of 1985–86 in the northern and eastern Transvaal. The thinking behind this campaign was that these areas were defined by the South African security forces as being part of a 'military zone', and the white farmers were conscripted into a commando. The ANC halted this campaign when it became clear that most victims of such explosions were civilians, including black farm labourers and the wives and children of farmers.
- 146 The third type of operation involved engaging in combat with South African security force members, sometimes offensively and sometimes defensively. The casualty rate was very high for MK guerrillas in urban areas, with few losses to the security forces; in rural encounters MK seemed to fare somewhat better.
- 147 The fourth type of activity involved the killing of individual security force personnel and people who were deemed to be 'traitors' or 'enemy agents'. Security policemen were naturally considered to be important targets; but as the South African government reinforced its security forces by using rapidly-trained black policemen – both in support of the Black Local Authority councillors and in support

of the riot police – these police became targets as well. Key leaders of violent vigilante movements or ‘warlords’ also came to be considered ‘legitimate’ targets for MK soldiers, even though they were not formally defined as members of the security forces.

- 148 The ‘people’s war’ strategy meant the blurring of distinctions between trained, armed soldiers and ordinary civilians who were caught up in quasi-military formations such as the *amabutho* or the self-defence units (SDUs). On the one hand, the MK guerrillas were not identified by uniforms and used the civilian population as ‘cover’. On the other, *amabutho* or ‘comrades’ were youth who, in the 1980s, formed themselves into quasi-military formations. While neither the UDF nor the ANC controlled these structures directly through any ‘chain of command’, they were seen at the time as being broadly ‘in line’ with the strategy of a ‘people’s war’.
- 149 MK attempted to ‘marry’ the armed struggle and the mass formations by infiltrating guerrillas who then selected youths from such formations for short military training courses. Sometimes this occurred ‘on the spot’; sometimes they were taken to front-line states for further training. In the process of implementing such a strategy, the general population, especially the youth, became militarised and ‘hardened’ to violence and brutality. Encouragement or sanction by the liberation movements, combined with a lack of direct control, can be seen as having led to many gross violations of the rights of others through ‘people’s courts’, ‘necklace murders’ and other brutal acts. Many innocent civilians suffered as a result – killed either by security forces for ‘ harbouring’ combatants, or by *amabutho* for their association with state representatives.
- 150 In Natal, the anger of UDF-supporting youth became focused on Inkatha members, who often served as the equivalent of councillors in KwaZulu, controlling local resources and operating under a system of patronage. This conflict became violent in 1984 and escalated towards the end of the decade. After the unbanning of the ANC and the transformation of Inkatha into the Inkatha Freedom Party (in 1990), the prevalence of weaponry led to the further escalation of conflict. The ANC denied that it ever engaged in a policy of attacking members of other political parties, including the IFP. However, during the period when the ANC was still banned, many people from Inkatha and other rival political groupings, such as AZAPO, were attacked by UDF supporters. Such actions were often perceived as ANC attacks.

151 Meanwhile, internal support for the ANC began to be displayed publicly in an increasingly defiant manner. Moreover, this support, traditionally confined to African areas, appeared to find significant resonance in coloured and Indian areas. Increasing support by major Western powers for a democratic settlement was combined with a small but vocal sense of disquiet from local business. For the first time since it assumed power, the government appeared unable to control, let alone quell, resistance.

152 These internal and external events led to a reappraisal by the SSC. By 1985, the SSC saw the situation as a growing spiral of threat. The realisation that the war had come home, and the move to an aggressive internal proactive policy was encapsulated in an SSC minute on 18 July 1985: "The chairman points out that he is convinced that the brain behind the unrest situation is situated inside South Africa, and that it must be found and destroyed. Action thus far has been too reactive, and the security forces must attend to this urgently." (18 July 1985, translated from Afrikaans.)

153 In accordance with these sentiments, police reaction to the demonstrations and other dissent became increasingly robust, and a considerably hardened approach began to develop. However, the more intensive police and army surveillance of the townships became, the more the vulnerable underbelly of the security forces came under attack – councillors, black policeman living in the townships, suspected informers, anyone associated with such people and increasingly even those who did not adhere to boycotts initiated by the mass democratic movement. The centrality of such individuals and groups to the success of the government's reform initiative put further pressure on the state's political programme.

154 The extent of the challenge posed by the internal unrest and the ANC can be gauged by a special meeting convened by the KIK in October 1985 to discuss whether it was possible to avoid a settlement with the ANC. Attended by top-level generals and intelligence personnel, the meeting referred to the massive national and international support for the ANC and to the widespread perception that the government was losing ground. While clear differences of emphasis are evident, the consensus was that any negotiation should take place from a position of strength, not weakness and a settlement should be avoided until the balance of power could be shifted. In the words of General Groenewald: "This is the stage when one can negotiate from a position of strength and can afford to accommodate the other party, given that it has largely been eliminated as a threat." (Translated from Afrikaans.)

155 The need to 'eliminate' the ANC as a threat led to the adoption of an internal strategy of counter-revolutionary warfare. A number of developments reflect this change.

156 First, there was a marked shift in the terminology used in SSC and related documentation. Words such as '*neutraliseer*', (neutralise), '*vernietig*' (destroy), '*elimineer*' (eliminate), '*uit te wis*' (wipe out) and so forth became common parlance.

157 Second, this shift was accompanied by an increasing dominance of the military in formulating and driving security perspectives. Former military intelligence officer HC Nel told a section 29 hearing:

*Out in the commandos, in the commands, in the territorial areas of the country the army was in charge whenever there was a crisis. The Defence Force would take charge because of our arrogant stance of "we know how to plan..." The police jump in a van and go and try and solve a problem and they normally end up in an ambush and run away. While the military have a much more structured role, and we have the force levels to our capability and we have the resources. And we assume that superior part and role. And in most areas where former Western Front guys were in charge of commands, that was obvious that the army was always controlling the situation.*

158 This shift is further evidenced by the adoption of significant sections of the influential text on counter-revolutionary warfare written by the SADF's Brigadier CA Fraser. Thus an extra-ordinary meeting of the SSC on 18 July 1985 adopted eleven principles for the 'countering of the revolutionary onslaught,' closely based on Fraser's text. Indeed, much of Fraser's book was later reproduced, with a foreword by PW Botha and circulated among state functionaries.

159 Third, and in keeping with the language used in SSC documents as well as the main tenets of counter-revolutionary warfare, there was an increasing use of the same methods 'of the enemy against the enemy'. This led to an approach in which violence was met with greater violence and the security forces themselves became covertly involved in extra-judicial killings, acts of arson and sabotage and other reprisals.

160 Fourth, there was an increasing emphasis on covert support for conservative groupings within black communities. This took a variety of forms. It included *Operation Marion*, in which a paramilitary and offensive capacity was given to

Inkatha; *Operation Katzen*, which aimed to overthrow the existing homeland governments in the Ciskei and Transkei and establish a regional resistance movement (*Iliso Lomzi*) to counter the UDF/ANC influence in that region; and the provision of financial and other support for a range of conservative individuals and vigilante groupings. Central to the latter aspect was the attempt to exploit divisions within organisations and communities, thus weakening the support base of the liberation and mass democratic movements.

- 161 Fifth, there was an increasing emphasis on co-ordination of security action, and significant resources were poured into the NSMS. The inter-departmental committee on security was upgraded and by 1987 was co-ordinating the activities of regional Joint Management Committees (JMCs), under the full-time direction of the Deputy Minister of Law and Order. JMCs were fully activated and thirty-seven 'hotspots' were designated as 'oilspots' where security would be normalised before urban renewal projects put in place. Indeed, the new strategic direction was characterised by the idea that reforms did not go hand in hand with law and order but could only be implemented once political stability had been achieved.
- 162 At the same time, however, emphasis was placed on co-ordination, several covert structures began to be put in place, including what became known as the Civil Co-operation Bureau (CCB) . In terms of a plan devised by Major General Joep Joubert, Special Forces operatives were deployed to work with selected Security Branch divisions. It was in part the development of this plan and the covert deployment of Special Forces internally that led to the development of the CCB.
- 163 Finally, the above took place in the context of a nation-wide state of emergency that effectively remained in place from June 1986 until mid-1990.
- 164 In the year after the imposition of the national state of emergency, the full force of a strategy of counter-revolutionary warfare unfolded domestically. By the end of 1987, the government succeeded in reasserting control and effectively defused whatever potential existed for an insurrectionary situation. Meanwhile, the international balance of forces changed as the Cold War ground to a halt with policies of *glasnost* and *perestroika* in the Soviet Union.
- 165 The ANC, realising the improbability of seizing state power through an armed insurrection, began genuinely exploring the possibility of a negotiated settlement. The government too began to move secretly towards negotiation. A series of secret meetings between emissaries of the South African government and leading

ANC figures were held in the second half of the 1980s. At the same time, the ANC implemented *Operation Vula* with the intention of returning senior ANC leaders into the country. *Vula* was seen by some ANC leaders as an 'insurance policy' in case the negotiation process failed. Others within the ANC possibly still held to a revolutionary dogma that could not contemplate attaining political power through peaceful means, and which still anticipated the arrival of an 'insurrectionary moment' after the suspension of armed struggle.

## 1990–1994: The transitional phase

- 166 The period from February 1990 changed the logic and the rules, written or unwritten, governing the contest for power in South Africa. In July 1989, President PW Botha formally received Mr Nelson Mandela to tea at the Tuynhuys, signalling the beginning of open negotiations. In September 1989 Mr FW de Klerk became president of South Africa, and shortly afterwards independence elections were held in Namibia. In February 1990, De Klerk announced the unbanning of proscribed organisations including the SACP, ANC and PAC, and released Mandela. The next four years saw intensive negotiations towards a democratic transition. The strategic thinking underlying this transition period is dealt with later in this volume.
- 167 This then provides an overview of the development of conflict in South Africa during the mandate period, the context in which gross violations of human rights occurred. The following chapters focus specifically on the nature and extent of violations committed by the major role-players throughout the mandate period.

## Postscript

- 168 Reference has been made in several others places in the Report (notably in the *Legal Challenges* chapter in Volume 1 and in the *Findings and Conclusions* chapter in Volume 5) to the difficulties involved in making findings and naming perpetrators of gross violations of human rights. The definitive judgement of Mr Justice Corbett, which required the Commission to give anyone against whom a detrimental finding was being contemplated a reasonable opportunity to respond, made a huge impact on the work of the Commission. Those who may have expected this report to contain a long list of perpetrators of gross violations of human rights will, consequently, be only partially satisfied with what they find in this and other volumes.
- 169 The Commission has sent out numerous section 30 notices during the past few months to persons against whom it anticipated making a finding to their detriment.

The response process has been slow and extremely time-consuming. At the same time, the Commission has sought to be meticulous in taking the representation of those against whom negative findings have been contemplated very seriously before making a final decision on the finding. This process was indeed still underway at the time of going to print. The outcome is that the chapters that follow do not contain all the names of those who the Commission is likely ultimately to name as perpetrators.

- 170 The amnesty process was also still underway. When this process is complete, a full list of those whom it has seen fit to name as perpetrators will be published in the Codicil to the Report that will appear at that time.
- 171 The Commission received a number of statements from family members of those who disappeared during the Commission's mandate period. While the Commission was able to determine the fate of some of these victims through investigations or as a result of amnesty applications or submissions, numerous cases remain unresolved. However, a number of amnesty applicants have applied for amnesty for abduction or killing of unknown persons, the identity of whom will be canvassed and investigated during the continuing amnesty process. Consequently, the Commission's report on disappearances has been deferred to the end of the amnesty process and this too will appear in the Codicil.
- 172 Great problems have been experienced with the spelling and the inconsistency in names in the writing of this volume. Again, everything possible has been done to resolve these matters. Where there are errors, the Commission apologises. We have also sought to be as accurate as possible in identifying the rank of military and police personnel, recognising that these often changed during the career of the persons concerned. In some amnesty applications and other submissions to the Commission, the rank of a person has been given at the time of the violation. In others, the rank is given as at the time of the amnesty application or submission. Again, everything possible has been done to ensure the greatest possible accuracy.
- 173 Versions of some violations are in certain instances based on the information of amnesty applications that have not yet been heard. We have taken this into account and refrained from naming alleged perpetrators solely on the basis that they were mentioned in these applications. The Commission, however, resolved to make use of these untested applications in a more general sense. Even here restraint has been exercised as it is recognised that, in the hearing of these and/or other applications, conflicting information may emerge.

# The State outside South Africa between 1960 and 1990

## ■ INTRODUCTION

*The security forces will hammer them, wherever they find them. What I am saying is the policy of the government. We will not sit here with hands folded waiting for them to cross the borders ... we shall settle the hash of those terrorists, their fellow-travellers and those who help them. (Minister of Defence, General Magnus Malan, Parliament, 4 February 1986.)*

- 1 The Promotion of National Unity and Reconciliation Act (the Act) charges the Commission with investigating and documenting gross human rights abuses committed "within or outside" South Africa in the period 1960–94. This chapter focuses on the "outside", specifically the Southern African region and Western Europe. Evidence has been gathered of violations committed by South African security forces or their agents and/or surrogates in nine regional states – Botswana, Lesotho, Swaziland, Angola, Mozambique, Zimbabwe, Zambia, Tanzania, and the Seychelles – and in Western Europe – in the United Kingdom, France, Belgium, the Netherlands and Scandinavia.
- 2 The primary focus will be on killings and attempted killings (including targeted assassinations, cross-border raids and large-scale massacres such as that at Kassinga in Angola in 1978) and on abductions and infrastructural sabotage.
- 3 Another area of focus will be acts which, though they may not in and of themselves have constituted gross violations, were violations of state sovereignty and international law and invariably led to or created the conditions for the perpetration of gross violations of human rights. The reference here is to the wars in Angola and South West Africa (now Namibia), South African Police (SAP) operations in Rhodesia, surrogate-force campaigns in Angola, Mozambique, Lesotho, Zimbabwe and Zambia, and the attempted coup in the Seychelles.

- 4 Over three decades, the South African government's involvement in the region expanded from occasional cross-border interventions in the 1960s to a situation in the 1980s where the South African Defence Force (SADF) was involved in various levels of warfare in six Southern African states, while covert units conducted attacks particularly in Botswana, Lesotho and Swaziland (the BLS states). Additionally, in the early 1980s, South African security and intelligence operatives attempted to overthrow the Seychelles government and co-funded a mercenary force of Presidential Guards in the Comores, which became the *de facto* ruling authority of that territory.
- 5 This involvement in the region led to the conclusion that the majority of the victims of the South African government's attempts to maintain itself in power were outside of South Africa. Tens of thousands of people in the region died as a direct or indirect result of the South African government's aggressive intent towards its neighbours. The lives and livelihoods of hundreds of thousands of others were disrupted by the systematic targeting of infrastructure in some of the poorest nations in Africa.
- 6 The South African government's security strategy was shaped by the doctrines of pre-emptive interventionism and counter-revolutionary warfare. By the 1980s, the region had become an arena of cold war confrontation. For the leadership of the government and the SADF, the war in Angola and the other conflicts across the region were good and just wars, part of the West's resistance to a perceived Soviet global offensive.
- 7 It is the Commission's view that the destruction wrought on the region by South Africa's counter-revolutionary war, particularly in Angola and Mozambique, was disproportionate to the threat posed by their post-independence governments and the fact that they played host to groups engaged in armed conflict with the South African government. At the time of their independence in 1975, Angola and Mozambique were severely underdeveloped and posed no credible military threat to the Republic of South Africa. Centuries of colonial exploitation had left them with a legacy of poverty and without the skills to build and manage a modern economy.
- 8 The Commission is, therefore, of the view that factors of race and racism should not be dismissed when attempting to explain South Africa's conduct in the region. It finds it difficult to believe, for example, that Koevoet would have been allowed to operate on a bounty basis, or that the SADF would have killed over 600 people,

many of them children and women, in the Kassinga camp in Angola, had their targets been white. From the evidence before the Commission, it appears that, while some acts of regional destabilisation may have been a defence against Communism, the purpose of the war was also to preserve white minority rule in South Africa and was, therefore, a race war.

- 9 The perpetration of gross human rights violations outside South Africa will be discussed through an examination of the following types of security operations:
  - a conventional warfare;
  - b police and military counter-insurgency operations;
  - c surrogate-force insurgency operations;
  - d police and military cross-border operations, including special operations of a sensitive nature or by the Civilian Co-operation Bureau (CCB);
  - e unconventional military operations.

## ■ CONVENTIONAL WARFARE

### The war in Angola

*I was then in the military, you know in the paratroopers and the Special Forces, and I was decorated for a couple of operations in South West Africa. I don't know if I must apply for amnesty for Kassinga ... It was probably the most bloody exercise that we ever launched, according to me ... we were parachuted into that target ... It was a terrible thing ... I saw many things that happened there but I don't want to talk about it now because I always start crying about it. It's damaged my life. (Lieutenant Johan Frederich Verster, ex-SADF Special Forces officer, testimony to the Commission, 4 July 1997.)*

*It (Kassinga) was a jewel of military craftsmanship. (General J Geldenhuys, A General's Story: From an Era of War and Peace, 1995. p. 93.)*

- 10 The targets and objectives of the various security operations conducted in Angola by the security forces of the former South African state were two-fold.

- 11 First, the possibility of the Popular Movement for the Liberation of Angola (MPLA) taking power in Angola was regarded by the former government as a threat to South Africa's security, as the MPLA was viewed as a Soviet surrogate. The introduction of Cuban forces into Angola in support of the MPLA simply confirmed that view. The South African government's initial objective, therefore, was to prevent the MPLA from taking power at independence. When this failed, the goal became its overthrow and replacement by a 'friendly' anti-Communist government led by the National Union for the Total Independence of Angola (UNITA).
- 12 Second, the movement of the forces of the South West African People's Organisation (SWAPO) into bases in Angola was regarded as escalating the threat to South Africa's position in South West Africa. Aware that it would ultimately have to implement UN Resolution 435, the South African government was determined to weaken or cripple SWAPO's military capacity in preparation for the time when SWAPO would enter the electoral stakes inside South West Africa.
- 13 South Africa's active involvement in Angolan politics after the collapse of Portuguese colonial rule escalated with the SADF's invasion of Angola, through *Operation Savannah*, in the second half of 1975. Though the operation was undertaken with the covert support of the US State Department, this undeclared act of war did not receive the approval of the South African cabinet. Indeed, the issue was not even raised at cabinet level until the invasion was several months old and no longer a secret.
- 14 The invasion was also illegal in terms of the 1957 Defence Act, which made no provision for the deployment of non-voluntary forces (conscripts) beyond South Africa's borders. To override this legal difficulty, Parliament passed an amendment to the Act in January 1976, sanctioning the deployment of non-voluntary South African troops outside of the Republic's borders. It was made retroactive to August 1975, the month in which *Savannah* was launched.
- 15 The Commission was not able to access any files on *Operation Savannah* in the SADF archives, nor did it have access to any Angolan data. There is no doubt, however, that the human and economic cost of the operation, involving over 2 000 men in mobile columns, was immense. In three to four months, the SADF swept through vast areas of central and eastern Angola, capturing numerous towns, until it was halted on the outskirts of Luanda by stiff Cuban-led resistance.

- 16 Civilian and military casualties on the Angolan side were considerable, given the known extent of damage to the social infrastructure. Thousands of people were displaced internally.
- 17 Though the SADF's intervention failed to prevent the MPLA from taking power at independence in November 1975, and even though SADF forces were withdrawn in March 1976, South African military and political involvement in Angolan affairs continued for the next thirteen years, with human and other consequences of varying degrees of severity for all the parties involved – Angolan, South West African, South African, Cuban and Soviet. South Africa's forces were not entirely withdrawn; the SADF created an eighteen-kilometre-wide demilitarised zone (DMZ) along a 1 000 kilometre stretch of the border, which it retained after the termination of the invasion. By creating a 'free-fire' zone, the SADF effected further large-scale displacement of people, this time of residents from both sides of the border.
- 18 Between 1976 and 1978, the SADF's strategy in respect of Angola focused on establishing a string of bases along the border, on rearming and strengthening UNITA's fighting capacity through the launch of *Operation Silwer* and on preventing SWAPO from moving south. This it did by deploying the 32 Battalion in frequent forays against SWAPO in the south of Angola.
- 19 Despite these efforts, by the end of 1977 the SADF believed that SWAPO had established a significant presence in the south and sought authorisation from Prime Minister Vorster for large-scale SADF operations. The concern of the SADF was shared by the administration in South West Africa, where there were plans to hold elections leading to the installation of an interim administration of which SWAPO was not to be a part. Were SWAPO to succeed in establishing a permanent foothold in the south of Angola, both the South African government and the administration in Windhoek feared that its capacity to disrupt the election would be enhanced.

#### ***Operation Reindeer: the attacks on Kassinga and Chetequera camps***

- 20 In human rights terms, the SADF raid on Kassinga, which killed over 600 people, is possibly the single most controversial external operation of the Commission's mandate period.
- 21 The SADF's view on the situation in southern Angola was spelt out in a communication from the chief of staff operations (CSOPS) to the chief of the SADF on

27 February 1978<sup>1</sup>. CSOPS argued that, since the termination of *Operation Savannah*, SWAPO had been successful in building up its strength in Owambo and the Eastern Caprivi, whence it was able to conduct operations in the northern areas of South West Africa. In the opinion of CSOPS, it was now imperative to deploy the full strength of the SADF's air and land capability against SWAPO, instead of counting on a 'hearts and minds' programme. It was also important to counter the enemy's propaganda by demonstrating that South Africa had so far deployed in Angola only a small part of its military capability.

- 22 CSOPS calculated that, by the end of 1978, SWAPO would grow from a force of 3 700 to 5 000 guerrillas, though it estimated that only 1 000 of these could be operationally deployed in the short term. The current estimate was that between 250 and 300 guerrillas were currently active in Owambo. Of SWAPO's five principal bases in the region, CSOPS identified Kassinga as the largest, with an estimated 800 guerrillas in camp. It was, however, also the furthest from the South West African border (198 km north of the border) which made the logistics of an assault complicated.
- 23 In arguing for a raid, CSOPS noted that SWAPO was becoming better organised and that, as a result, the SADF's principal operating unit inside Angola, 32 Battalion, was finding it difficult to operate. UNITA was likewise under pressure. In short, SWAPO was benefiting from the fact that South Africa was not fighting to its full potential. If operations became effective, on the other hand, SWAPO would be forced to disperse its camps into smaller components, making the organisation less effective. This would also make it more difficult for Cuban instructors to work with and easier for UNITA to operate against SWAPO.
- 24 On 8 March 1978, the chief of the army, Lieutenant General Viljoen, sent a communiqué (H/LEER/309) to the chief of the defence force, in which he identified the camp at Kassinga as the planning headquarters of SWAPO's armed wing, the People's Liberation Army of Namibia (PLAN) – subordinate only to SWAPO's defence headquarters at Lubango. He also noted that the camp was the principal medical centre for the treatment of seriously injured guerrillas, as well as the concentration point for guerrilla recruits being dispatched to training centres in Lubango and Luanda and to operational bases in East and West Cunene. The camp also offered refresher courses in infantry warfare and mine-laying.
- 25 General Viljoen noted that the camp was not heavily defended and that the nearest Angolan army and Cuban forces were at Techumutete, fifteen kilometres to the south. The target lent itself to the maximum use of air power and the

<sup>1</sup> File reference: HSOPS/310/4.

infliction of maximum casualties. Finally, he suggested that, given the presence in the camp of PLAN's commander, Dimo Amaambo, important documents could be captured. Other documents in the SADF files make it clear that it was also hoped that Amaambo and other senior PLAN officials would be captured or killed.

26 Approval for the Kassinga operation – which became part of *Operation Reindeer* – was received in about March 1978. The original operational orders included the following priorities and instructions:

- a Maximum losses were to be inflicted on the enemy but, where possible, leaders must be captured and brought out. Once the attack was completed, no prisoner-of-war was to be shot in cold blood.
- b Documents as well as useful weapons were to be removed.
- c Bases were to be destroyed.
- d Skirmishes with Cuban and Angolan Army forces were to be avoided if at all possible.
- e Photographs were to be taken after the attack to counter "enemy" allegations.
- f Where possible, women and children were not to be shot.

27 The details of the plan were as follows:

**phase one:** *from ten days prior to the operation (D-10): Low-profile coverage, with selected media references to Alpha (Kassinga);*

**phase two:** *beginning D-7: The key idea should be to create the impression of a resumption of SWAPO border violations and attacks on SADF patrols, especially against the local population. The intention would be after a relatively quiet period to refocus attention representing it as a seasonal trend. Shortly before D-1, information should be released on a SWAPO build-up. Thereafter, on D minus 1, a grave incident (real or imaginary) must take place. Either attempted assassination or cross-border attack on SADF patrol base. In the case of the latter, some casualties could be attributed to this attack;*

**phase three: D to D+4: Media operational:**

C Army must ensure that media coverage of the operations (especially Alpha Camp) takes place. Credible coverage and immediate release are essential to counter probable hostile counter-claims of SADF operations and mass killings of civilians, especially women and children. Guidelines: Photo cover must feature: i) military features, for example, weapons, ammunition, communications, headquarter buildings; ii) any dead must have weapons alongside them; iii) any photography of civilians must reflect humane treatment, e.g. being provided with food. Civilians should, however, be avoided altogether; iv) documents captured must feature prominently to add credibility to subsequent disclosures.

- 28 Accompanying this document in the file is an undated message from SWA Command to the chief of the army, which reads: "Contingency plans in progress to create own incidents that can be attributed to SWAPO should insufficient publicity or further SWAPO actions be forthcoming". The signal also emphasised the need to counter any enemy propaganda about attacking civilian targets.
- 29 On 25 April 1978, the SWA Command sent a signal for the attention of either General Viljoen or General Gleeson. It noted that the UN General Assembly was in session on the subject of SWA and that the debate would last until 3 May. D-day should, therefore, be delayed until the conclusion of the debate to avoid making life difficult for those countries favourable to South Africa. On 30 April, higher authority dictated a delay of at least forty-eight hours.
- 30 As the commanders of *Reindeer* waited for the go-ahead from the cabinet, a number of messages were passed on the changing situation. On 2 May 1978, the chief of the defence force signalled the chief of air staff that considerable extensions were being made to Kassinga's defensive installations. It was also now estimated that between 1 000 and 1 500 PLAN recruits were at Kassinga, including fifty to one hundred Cubans. Permission was given for two Mirages to be added to the air component.
- 31 It is clear that from the SADF's perspective, Kassinga was a military facility rather than essentially a refugee camp or refugee transit facility, as SWAPO has always claimed. The photographic evidence shown to the Commission at the SADF archives suggests a military dimension to the camp. This cannot, however, be taken as conclusive evidence that Kassinga was a military base. In the context of the ongoing war in Angola, some defensive fortification of any SWAPO facility, whether civilian or military, would have been standard practice.

32 What is evident is that human settlement in the Kassinga area had grown considerably in the period since Angola's independence. The site was allocated to SWAPO by the Angolan government in 1976, after an appeal for help to cope with an inflow of thousands of refugees. Under SWAPO's control, the abandoned homes in the village had been converted into offices, a kindergarten and primary school, a clinic, a sewing facility, and storage and vehicle repair workshops. New permanent structures had also been erected, plots cultivated and a set of defensive trenches dug. SWAPO had also installed two anti-aircraft guns in the centre of the village, and the camp contained a self-defence unit of approximately 300 male and female PLAN cadres.

33 The fact that Kassinga had a non-military dimension is reflected in a UNICEF report of a visit by a UNICEF delegation from its regional office in Brazzaville, published two days before the raid. Central to the report was the fact that, although well-run and well-organised, the facility was ill-equipped to cope with the rapid expansion in the size of the refugee population as a result of a steady inflow in early 1978. Kassinga was thus both a military base and a refugee camp. It housed a considerable number of combatants, including senior officers. It also housed considerable numbers of civilians. As a large facility, it was easily partitioned into military and non-military sections.

*As a result of the ominous build-up of SWAPO forces in southern Angola and the extensive campaign of intimidation of the local inhabitants and the murder of political leaders in SWA, as well as the large number of border violations during the past few weeks, a limited military operation against SWAPO forces has been carried out over the border ... I trust that the limited operation will leave those who wish to threaten us under no illusions ... I have in the past while repeatedly expressed the hope that military bases will not be made available to terrorists in southern Angola, but this apparently has fallen on deaf ears. (Minister of Defence, Mr PW Botha, press release, 4 May 1978)*

34 Reindeer began with an attack at 08h00 on 4 May 1978. Four Canberra jets dropped 300 Alpha bombs, followed one minute later by four Buccaneers which dropped seven 400kg fragmentation bombs. The initial target was the parade ground where between fifty to one hundred 'enemy' were seen immediately before the attack. At 08h04, 370 paratroopers were dropped on the camp, but many of them fell well away from the target area because of high winds. It took just over an hour for the paratroopers to group together, during which time many of

Kassinga's inhabitants were able to flee to safety. These included most of PLAN's senior officers, including Dimo Amaambo.

- 35 Several hundred occupants of the camp were not so fortunate, however. By 10h30, signals from the ground were reporting heavy 'enemy' casualties and the capture of large quantities of weapons. At noon, the first helicopter extractions of SADF personnel began. By this time the chief of the army, Lieutenant General Viljoen, had been taken into the battlefield area aboard a Puma helicopter. General Ian Gleeson (101 Task Force), Colonel 'Blackie' de Swardt (SAAF) and Colonel 'Giep' Booysen (SA Medical Services) were in overall command of the actual operation and responsible for its planning. Fighting forces on the ground at Kassinga were led by Colonel Jan Breytenbach (32 Battalion), and Commandant Deon Ferreira, and at Chetequera by Major Frank Bestbier.
- 36 At 13h45 between twenty and thirty armoured cars were reported as being *en route* from the nearby Angolan military base at Techumutete, which also housed Cuban troops. Later, other troop carriers were spotted moving towards Kassinga. These convoys were attacked from the air and many were destroyed. According to information drawn from the Cuban archives, approximately 150 Cuban troops died in these attacks – the most serious casualty loss in their involvement in Angola.
- 37 By evening, the assault on Kassinga was complete and all SADF personnel, bar five missing troops, had been withdrawn from the site. The SADF's anxiety about external reaction is reflected in a signal from the chief of the defence force, sent at 19h30, enquiring whether any women and children had been killed. This took priority over a 20h50 signal enquiring whether any Cubans had been captured. In response to the earlier query, SWA Tactical Headquarters sent out a top-secret message that night (OPS/104/04) reporting that there were many women and children at Alpha and that large numbers had been killed. Among the dead women, the message reported, many had been in uniform and many in the trenches.
- 38 At 22h00, SWA Tactical HQ sent a further message which read as follows (translated):

#### **Target Alpha**

*Enemy losses estimated at 500 (five hundred) dead.*

- i. *No POWs taken because of the serious threat from the south from enemy tanks and armoured cars. Initially 75 POWs were captured and 15 earmarked as POWs including women in uniform. Some were in civilian clothing. All looked like young recruits;*

- ii. Air attack caused extensive casualties and damage. All the buildings within reach were set on fire. Three 14.7 machine guns were damaged but could not be destroyed. Explosions indicated that ammunition dumps had been destroyed. A large number of documents were seized in the OC's house. He could not be found;*
    - iii. After the bombardment considerable numbers of the enemy were noticed in the trenches. They offered reasonably strong resistance;*
    - iv. 14.7 machine guns could not be silenced by the ground forces, so close air support was called in. The machine guns fired on the Buccaneers at every opportunity;*
    - v. The enemy resisted firmly and did not run away. Some made out they were dead but were then either killed or captured.*

- 39 The official death toll (according to an Angolan government White Paper) was 159 men, of whom only twelve were said to be soldiers, 167 women and 298 teenagers and children – a total of 624. In addition, 611 South West Africans were wounded in the attack. These were largely victims of the initial bombing attack. The dead were buried in two mass graves. Foreign journalists who saw the graves before they were covered confirmed that large numbers of the dead were women and young people wearing civilian clothes. This does not necessarily mean that they were all non-combatants. In a guerrilla camp, not all combatants would be wearing uniforms. Moreover, the figure of twelve soldiers cited by the Angolan White Paper is not credible, unless the reference to soldiers is limited to the twelve Angolan government soldiers killed during *Reindeer*. It is known too that PLAN forces contained women and it can be assumed that some of the women casualties were combatants.
- 40 The Kassinga raid formed only a part of the *Reindeer* operation. There were also attacks on a number of SWAPO facilities in and around Chetequera (an area known by SWAPO as “Vietnam”) where over 300 South West Africans were killed and a large number captured. These prisoners – between 200 and 300 in all – were taken to the Oshakati military base where many were tortured. Nearly two years later, in January 1980, the International Red Cross reported that 118 of them were still being held at a detention centre near Mariental in the south of South West Africa (see further below).

41 Some 1 200 hundred people – South West African, Angolan, Cuban and South African – died; over 600 others, overwhelmingly South West African and Angolan, were wounded in the attacks on Kassinga and Chetequera that day. It is probable that some died later from their wounds. In addition, several hundred were captured at Chetequera. No prisoners, or perhaps at most a handful, were taken from Kassinga. Those reported in the early despatches as being held as prisoners were released when no room on the evacuation helicopters was available for them.

42 All the planning documentation, including aerial photographs, would indicate that the SADF command was convinced that Kassinga was the planning headquarters of PLAN, and thus a military target of key importance. Given the objective (expressed in the CSOPS communication to the Minister of Defence on 27 February 1978) of demonstrating South Africa's military superiority and inflicting major damage on SWAPO's military capacity, it would seem strange if a refugee camp had been chosen as a target. This does not, of course, obviate the possibility of mistaken target identification, though the aerial photographs and the detail of intelligence reports of what was going on at Kassinga obviously guided the SADF command to their conclusions. It is probable therefore, that the SADF could mount a plausible defence of its operation in terms of the doctrine of pre-emptive interventionism and the right of states to defend themselves.

43 This argument would, however, have to fail in this case for the simple reason that the state being defended by South Africa was South West Africa, which South Africa was occupying illegally. In terms of UN General Assembly Resolution 2145/66 and UN Security Council Resolution 385/76, South Africa's mandate in South West Africa was revoked and its occupation deemed illegal. Hence any justification of a retaliatory operation cannot be accepted.

44 Beyond the issue of the mandate, *Operation Reindeer* violated international humanitarian law on other counts, one of which was the failure to take adequate steps to protect the lives of civilians. International humanitarian law stipulates that the right of parties in a conflict to adopt means of injuring the enemy is not unlimited and that a distinction must at all times be made between persons taking part in hostilities and civilians, with the latter being spared as much as possible. There is little evidence that the SADF took sufficient precautions to spare those civilians whom they knew were resident at Kassinga in large numbers.

45 The fact that the operational orders for *Reindeer* included the instruction that "women and children must, where possible, not be shot" is evidence of the

SADF's prior knowledge of the presence of civilians. However, this apparent intention to spare their lives was rendered meaningless by the SADF's decision to use fragmentation bombs in the initial air assault, as such weapons kill and maim indiscriminately. Their use, therefore, in the face of the knowledge of the presence of civilians, amounts to an indiscriminate and illegitimate use of force and a violation of Protocol 1 to the Geneva Conventions of 1949. The foreseeable killing of civilians at Kassinga was therefore a breach of humanitarian law.

- 46 The treatment of civilians in this operation may have violated international legal covenants in another respect; in this case a provision of Protocol 11 regarding the treatment of the wounded. If press reports based on a press interview with an officer involved in the operation are accurate (see below), the SADF failed to protect and care for those wounded in the operation. According to this source, some of the wounded, irrespective of their status as combatants or civilians, men or women, were shot.

*We were in enemy territory and had to get the hell out of there as quickly as possible. There were just too many wounded. We could have left them on the battlefield to die in pain and agony. We couldn't. I was given an AK-47 and instructed to kill those who couldn't be saved. I had to decide who was not going to live. I was the company leader, so I had to take the lead. I don't know how many people I shot that day. Some were conscious, some were not. We found this woman clutching her screaming baby. It was only when we saw the terrible wounds inflicted by an Air Force bomb. There was no hope for her. I had to shoot her. She looked at me. I can never describe what it did to me. It was too much. I later broke down. (Anonymous soldier, The Star, 8 May 1993.)*

- 47 The Commission has not been able to corroborate the information contained in this quote. It did, however, speak to retired General Chris Thirion who was present at Kassinga and who stated that he was standing next to General Viljoen when he heard him give a command that no wounded were to be killed. He concedes that this does not mean that none were killed but, if so, this would have been contrary to orders. The Commission accepts, therefore, that there were no orders to kill the wounded, but is not convinced that this did not happen. The Commission also has evidence from the war in South West Africa that, on occasion, badly wounded SWAPO fighters were shot and not given medical treatment.

48 The Commission, therefore, makes no finding on the treatment of the wounded. It does, however, make a finding on the choice of weaponry used in the attack and on the question as to whether adequate care was taken to protect the lives of civilians. In making a finding, the Commission has taken cognisance of the following international legal provisions: Principles III, IV, VI of the Principles of International Law Recognised in the Charter of the Nuremberg Tribunal and in the Judgement of the Tribunal 1950:

THE COMMISSION FINDS THAT OPERATION REINDEER WAS A VIOLATION OF THE TERRITORIAL SOVEREIGNTY OF THE REPUBLIC OF ANGOLA AND THAT IT RESULTED IN THE COMMISSION OF GROSS HUMAN RIGHTS VIOLATIONS AGAINST THE CIVILIAN OCCUPANTS OF THE KASSINGA CAMP WHICH ENTAILED DELIBERATE PLANNING ON THE PART OF THE FOLLOWING PERSONS WHO ARE HELD ACCOUNTABLE:

- PRIME MINISTER BJ VORSTER IN HIS CAPACITY AS HEAD OF STATE (PRINCIPLE III);
- MINISTER OF DEFENCE PW BOTHA IN HIS CAPACITY AS POLITICAL HEAD OF THE SADF;
- GENERAL MAGNUS MALAN IN HIS CAPACITY AS CHIEF OF THE SADF;
- LIEUTENANTS GENERAL CONSTAND VILJOEN AND RH ROGERS IN THEIR CAPACITIES AS CHIEFS OF THE ARMY AND AIR FORCE RESPECTIVELY.

### ***The State Security Council and Angola***

49 With the accession to power of Mr PW Botha in September 1978, the war against Angola became a government priority. In March 1979, the State Security Council (SSC) adopted two strategy documents pertaining to Angola. One was a total national strategy encapsulating a long-term view; the other was a short-term strategy document. In the former, the government spelt out its goals as being to use all means – political, diplomatic, psychological, economic and military – to neutralise the Angolan government's support for SWAPO as well as to bring down the MPLA government, if and when the assurance existed that a more friendly and stable government would replace it.

50 The short-term strategy document lists its objectives, stating that the political situation in Angola should be kept as unstable as possible, that support should be rendered to UNITA and other movements, and that clandestine operations should be launched against Angola with the aim of forcing the MPLA government into preventing SWAPO from operating in southern Angola.

51 In a section headed *Opdrag en Take* (Mission and Duties), four tasks are detailed:

- to subject southern Angola to a national strategy for as long as it takes to pressurise the MPLA to abandon its support for SWAPO;
- to enlist UNITA and other movements as partners (*"bondgenote"*) against the Marxist onslaught;
- to destroy SWAPO bases in Angola through co-ordinated actions;
- to make preparations for conventional operations against Angolan, Cuban and SWAPO forces.

52 With regard to the first two tasks above, the document talks of establishing a stable anti-Communist government in the south (a UNITA government) as soon as the political situation in the area has stabilised. All tasks and strategies in the short-term plan were to be directed to this end. In other words, the immediate objective of the SADF was to partition Angola and, in effect, to bring about the secession of the south of the country.

53 The importance of UNITA and its leader, Mr Jonas Savimbi, to South African strategy at this time was stressed in a letter from the chief of the SADF, General Malan, to CSOPS (chief of staff operations) Major General Earp, dated 6 March 1979, in which he states that "*Mario* [SADF codename for Savimbi] se voortbestaan raak direk die toekoms van Suidelike Afrika. Hy het so belangrik geword dat ons sy veiligheid sal moet verseker". (His continued existence directly influences the future of Southern Africa. He has become so important that we will have to ensure his safety.)

54 Under economic action guidelines, the following steps were listed:

- to so disrupt the national infrastructure of Angola through clandestine operations, that an unstable situation in the country would be created;
- to disrupt, through clandestine operations, the main export harbours and railways leading to the south of Angola;
- to handle to the best advantage of South Africa all requests from the Angolan government in connection with electric power from Ruacana (the hydro-electric scheme on the Angola–Namibia border), as well as food supplies.

55 The document concludes by emphasising the urgency of the situation and the intensity of the Marxist onslaught in the region. It then goes on to argue that, owing to the abbreviated UN time-scale envisaged for South West Africa (a reference to the pending implementation of UN Resolution 435), the short-term strategy must be implemented as speedily as possible.

56 The implementation of this strategy was discussed at a series of meetings in March 1979. At a meeting between Savimbi, the chiefs of the defence force and the army and senior staff officer of special operations in the department of Military Intelligence (MI), it was agreed that UNITA's priority would be to clear the MPLA and SWAPO out of Cuanda-Cubango province and "*dele van die Cunene*" (parts of the Cunene province) so that the nucleus of a UNITA government could be established and so that "*die verbindingslyne tussen Angola en SWA weer daargestel kan word*" (the lines of communication between Angola and SWA could be restored). A *modus operandi* was agreed whereby the SADF would take the initiative in Cunene province (see discussion on *Operation Protea* below) with support from UNITA, while the reverse would apply in Cuanda-Cubango. It was also agreed that, from this point, 32 Battalion would be semi-permanently deployed in southern Angola.

57 The post-1979 military strategy in Angola therefore took the form of a series of large-scale conventional military operations against pre-selected SWAPO and Angolan Army targets, while 32 Battalion formed the vanguard of a low-intensity counter-insurgency campaign. The third prong was *Operation Silwer* (see below), which provided ongoing logistical and other support to UNITA.

58 The Angolan war was an ongoing, thirteen-year-long occupation, enabling the SADF to achieve one of its aims, namely, the *de facto* secession of the south from central government control. This is certainly the view of former army and SADF chief, General Geldenhuys. Writing in his autobiography, he states:

*A few specific cross-border operations made headlines ... Each, in turn, had a positive influence on the course of the war ... in the end ... it was the overall effect of the almost unseen but incessant day-to-day general operations that brought us success.*

59 The first big operation in this post-1979 phase of the war was launched in June 1980. *Operation Sceptic* began as a lightning attack on a SWAPO base complex called 'Smokeshell', 120 kilometres into southern Angola and developed into an

extended operation which produced the first serious clashes between the SADF and the Angolan Army and mechanised elements of SWAPO. It ended by driving SWAPO from its forward bases; 380 guerrillas and seventeen members of the SADF were killed.

- 60 A year later, in August 1981, the SADF launched *Operation Protea*, the largest mechanised operation undertaken by the South African military since World War II. Protea was launched in implementation of the decision made in March 1979 to install UNITA as the *de facto* government of southern Angola. In the initial eighteen-day phase of the operation, the SADF occupied 50 000 square kilometres of Cunene province. Thereafter, parts of the province remained under SADF occupation until 1989, essentially as a support for UNITA which, from January 1982, took effective administrative control of most of the province.
- 61 The information below is drawn from a variety of sources including files in the collection "Aanvullende Dokumente" (Supplementary Documents) OD 1968 no. 20 held by the military archives.
- 62 According to this collection, the immediate military objectives of *Operation Protea* were the destruction of PLAN headquarters at Xangongo and Ngiva and the capture of the extensive caches of equipment held at Ngiva. During the initial 1981 phase of *Protea*, several towns in Cunene province such as Cahama, Chibemba, Xangongo, Mongua and the provincial capital Ngiva were extensively damaged by bombing and artillery attacks which also caused civilian casualties.
- 63 After two weeks, all the towns mentioned above, indeed most of the province, had been evacuated. According to the BBC, an estimated 160 000 Angolan civilians were rendered homeless and were forced to flee to sanctuary further north in Lubango. British press reports of the operation spoke of the SADF's use of heavy artillery for long-range bombardment of towns and villages in combination with SAAF carpet-bombing before ground troops moved in to take control. The result in Cahama was that only four out of forty to fifty buildings in the main street were left intact. Amongst the facilities reportedly destroyed were a hospital, a dispensary and a food distribution centre.<sup>2</sup>
- 64 According to press reports, more than 1 200 SWAPO and Angolan Army soldiers were killed in the operation, along with several Soviet advisers. One Russian warrant officer and seventy-nine Angolans were captured. The SADF files give a casualty toll of 746 Angolan Army and eighty-one SWAPO combatants, and four

<sup>2</sup> Focus No. 38, January –February 1982, pp. 10–14.

Soviet advisers. The number of civilian deaths is not known to the Commission, but, given the systematic and sustained targeting of civilian centres, it must have been large. The SADF suffered fourteen dead and sixty-four wounded.

- 65 In terms of civilian casualties, the mass displacement of civilians and the creation of an internal refugee population, as well as the wholesale destruction of towns and socio-economic infrastructure, *Operation Protea* probably caused more human suffering and physical damage than any other operation in the thirteen-year-long Angola war, resulting in violations of human rights on a vast scale.
- 66 Protea was followed by Operations Daisy in 1981, *Super and Meebos* (1982), *Phoenix* and *Askari* (1983), *Boswilger* (1985), *Modulér* and *Hooper* (1987–88), *Packer* and *Displace* (1988). Each of these was a smaller-scale version of *Sceptic* and *Protea* and resulted in large numbers of casualties. According to the military historian, Colonel CJ Notthling, writing in the 1989 *South African Defence Review*, over 8 000 ‘terrorists’ (SWAPO and Angolan Army forces) were killed in these campaigns. No figures are cited for civilian deaths. The SADF acknowledged 136 fatalities (three each in *Daisy* and *Super*, twenty-nine in *Meebos*, twenty-seven in *Phoenix*, twenty-one in *Askari* and fifty-three in *Hooper* and *Modulér*).
- 67 The December 1983 *Operation Askari* was aimed at disrupting PLAN’s logistical infrastructure and its command and control systems through ground and air attacks. In its advance towards SWAPO headquarters near Cuvelai, a major battle developed between South African forces and Angolan Army units aided by two Cuban battalions. According to the SADF, this was the biggest encounter between South African and Angolan Army forces of the entire war: 324 Angolan and Cuban troops and twenty-one South Africans were killed. Another casualty was the town of Cuvelai, which was almost totally destroyed. In 1984, when there was a temporary withdrawal, Angolan authorities re-entered the ruined town and reported that facilities and most buildings had been destroyed while livestock had either been killed or taken to South West Africa. There had been extensive civilian casualties.
- 68 During *Operation Hooper*, SADF and Angolan Army forces clashed in a number of large land battles near the town of Cuito Cuanavale. The town was shelled by SADF 155mm artillery for several weeks, and largely destroyed. The SADF failed, however, to capture the town and the stalemate led eventually to negotiations and the signing of the New York Accords in December 1988. These agreements produced an SADF withdrawal from Angola (*Operation Displace*), the implementation of UN Resolution 435 and the independence of Namibia in March 1990.

69 The above operations all targeted either SWAPO or Angolan Army facilities. In another SADF raid, the South African Air Force (SAAF) attacked an African National Congress (ANC) camp at Nova Catengue on 14 March 1979. Essentially a transit facility, the camp housed large numbers of recent exiles (the 1976 Soweto outflow). While the facility was severely damaged in the raid, casualties amounted to three dead (including one Cuban) and fourteen wounded. Casualties were comparatively low because advance intelligence had been received and the camp had been evacuated.

### ***The economic and human costs of the Angolan War***

70 In addition to destroying Angolan towns in the south of the country, the SADF targeted economic installations in Angola, especially its petroleum facilities. These included attacks on the Luanda oil refinery on 30 November 1981, the storage tanks in the port of Namibia in June 1988 and those at Huambo in 1987. On 21 May 1985, a Recce 4 commando unit was intercepted attempting to sabotage the Cabinda Gulf Oil complex and the commander, Captain Wynand du Toit, was captured. Road bridges and the Benguela railway were also frequently sabotaged.

71 The effects of the war on Angolan civilians were devastating. UNICEF has estimated that, between 1980 and 1985, at least 100 000 Angolans died, mainly as a result of war-related famine. The cumulative effect of the battering of the economy and social infrastructure in the 1980–85 period produced an even greater escalation in the death rate after 1985. Between 1981 and 1988, again according to UNICEF, 333 000 Angolan children died of unnatural causes. The Angolan government estimated the economic cost of war damage to be US\$12 billion in 1987 alone.

72 The environmental effects of the war on the south (and in the Caprivi) were devastating. Both forest lands and wildlife were destroyed. This rape of the environment was sanctioned by the SADF. In the early 1980s, covert front companies were established to facilitate trading in rare woods like teak and kiaat, and in ivory, skins and diamonds. A safari company was also set up through which the hunting of big game was regulated. Ostensibly, these activities were undertaken to raise secret funds for UNITA, but they led quickly to widespread and high-level corruption.

**THE COMMISSION FINDS THAT THE SOUTH AFRICAN GOVERNMENT'S MILITARY CAMPAIGN IN ANGOLA BETWEEN 1977 AND 1988 LED TO GROSS VIOLATIONS OF HUMAN RIGHTS ON A VAST SCALE. THE COMMISSION FINDS FURTHER THAT THE CAMPAIGN CONSTITUTED A SYSTEMATIC**

PATTERN OF ABUSE, WHICH ENTAILED DELIBERATE PLANNING ON THE PART OF THE FORMER CABINET, THE STATE SECURITY COUNCIL AND THE LEADERSHIP OF THE SOUTH AFRICAN DEFENCE FORCE. THE COMMISSION FINDS THESE INSTITUTIONS AND THEIR MEMBERS ACCOUNTABLE FOR THE AFORESAID GROSS VIOLATIONS OF HUMAN RIGHTS.

## ■ POLICE AND MILITARY COUNTER-INSURGENCY OPERATIONS IN SOUTH WEST AFRICA

*The third specific incident that I remember is chasing a SWAPO unit commander or political commissar. We picked up his spoor and chased him for two days ... this was typical of the style of contacts that I was involved in. Five Casspirs, fifty men chasing one or two people running on foot. We finally did catch him, hiding in a kraal. The unit commander ... lined up a bunch of Koevoet people next to the hut he was in and drove over the hut with the Casspir. Everyone then fired into the rubble ... The SWAPO commissar was pulled out of the rubble and given to me to keep alive. He had been shot in the arm and the leg and had been driven over ... because he was a commissar, he would have been carrying a handgun. John Deegan [acting unit commander] started to interrogate him while I was putting up a drip. The purpose of this interrogation was to find the handgun ... We never found the handgun because John shot him in the head out of frustration while I was still attending to him. The incident and the face of this SWAPO commissar haunted me in dreams for years.*  
*(Lance Corporal Sean Callaghan, amnesty application, December 1996.)*

*[The SWAPO commissar] was a veteran ... he would have been an excellent source of information but he was so fucked ... each team had an army medic and Sean started patching up this guy while I was busy interrogating him ... and he was just going "kandi shishi", even at this stage he was denying everything ... and I just started going into this uncontrollable fucking rage and he started going floppy and I remember thinking "how dare you, I'm talking to you, how dare you ignore me...why don't you answer me" and then this is what I was told afterwards. I had my 9mm in my hand and I was just pushing my way through the team ... and apparently what happened was I started ripping ... Sean had put a drip into the guy's arm and started plugging the bullet hole to get him together ... he would have pulled through ... I ripped all the bandages, the drip off the guy, pulled out my 9mm, put the barrel between his eyes and fucking boom I executed him ... and they told me afterwards I was just screaming, I was raging ... (Warrant Officer John Deegan's account of this incident to the Commission's conscript hearing, Cape Town, June 1997.)*

73 Three factors are central to the human rights situation in South West Africa (Namibia) in the Commission's mandate period. The first is the fact that the South African presence in the territory was a violation of international law, and that the South African administration and its courts and security forces had no right in international law to carry out any actions affecting the South West African people. If this did not apply for the full Commission mandate period, it certainly applied from October 1966 when the UN General Assembly terminated South Africa's mandate over South West Africa, a decision affirmed by the Security Council in 1969. In June 1971, the International Court of Justice in The Hague declared South Africa's presence in South West Africa illegal and demanded its withdrawal. It further declared invalid all South Africa's acts on behalf of or concerning South West Africa. The Commission's analysis of the situation in South West Africa is informed by this position in international law, from which it follows that all security-related actions initiated by the South African and South West African administrations and their security forces were those of illegal and illegitimate authorities.

74 The second factor relates to the fact that, for twenty-three years, these authorities were engaged in a guerrilla war against an indigenous liberation movement whose armed struggle was legitimated both in terms of international law and by the overwhelming moral support of the international community.

75 The third factor relates to the sheer enormity of the topic. South Africa's occupation of South West Africa would merit a separate truth commission of its own.

76 In the account that follows, emphasis will be laid on two particular factors – torture and extra-judicial killings. In regard to the latter, the focus will be on the bounty or 'cash-for-corpse' policy employed by the police counter-insurgency unit, *Koevoet* (crowbar). Where possible, reference will be made to those human rights violations and amnesty applications pertaining to South West Africa that were submitted to the Commission. These were, however, relatively few: only one human rights violations submission and thirteen amnesty applications were received.

## **Changes in human rights violations over time**

77 The pattern of human rights violations in South West Africa varied over time, in accordance with the level and nature of resistance to the South African occupation. This pattern may be periodised as follows:

## **1960–1966**

78 During this period, there was little organised resistance to South Africa's occupation and no armed struggle. Even so, the apartheid system was enforced with even more rigidity in South West Africa than in South Africa itself and the human rights of the people of South West Africa were constantly and systematically violated, in particular through the system of contract migrant labour. During the 1960s and 1970s, up to two-thirds of South African workers were subjected to this form of labour control and coercion. Contract workers were required to leave their families in the 'homelands' and to sign contracts that rendered them powerless to choose their employer or to negotiate a wage. Those who resigned from their jobs or broke their contracts were liable to deportation back to the 'homeland'. This was a systematic violation of basic human rights which established a system of quasi-slavery. It also served to depress wages and prevent labour organisation. While modifications were made to the system after the 1971–72 contract workers' strike, the system remained in place until 1977.

## **1966–1971**

79 The second period falls between 1966 and 1971. In 1966, SWAPO launched an armed struggle, although only a few incidents took place in this period, mainly in the Caprivi Strip. In this period, the SAP were in direct control of the counter-insurgency effort. A number of leading members of SWAPO involved in this early phase of the armed struggle were captured and put on trial in Pretoria (see below).

## **1971–1974**

80 The third period falls between 1971 and 1974. The Advisory Opinion of the International Court of Justice in 1971, that South Africa's presence in South West Africa was illegal, triggered a contract workers' strike which involved between 13 000 and 20 000 workers. Subsequent political tensions in Owamboland in the north, where most South West Africans live, resulted in considerable police activity and public floggings carried out by bantustan officials (see below).

## **1974–1980**

81 The fourth period falls between 1974 and 1980. This was a period of militarisation. SWAPO established camps and bases in the south of Angola after Angola became independent in 1975 and began operations along the Angola–South West Africa

border. In the same year, the SADF took over counter-insurgency responsibility from the SAP and established an infrastructure of bases throughout the 'operational areas' of Owamboland, Kavango and Caprivi. Human rights abuses by South African troops during this period escalated considerably. One consequence was a dramatic increase in the outflow of refugees, particularly from Owamboland.

### ***1980–1988***

82 The fifth period falls between 1980 and 1988. From around 1980, the nature of the war began to change. South Africa increasingly relied on *Koevoet*, a newly-formed special police counter-insurgency unit, which became notorious for its human rights abuses during its pursuit operations. A process of indigenising the war effort began and South West Africans were recruited and conscripted into a South West Africa Territory Force (SWATF), a largely locally-staffed military force which took on much of the burden of the war, although it remained under firm South African control at the senior officer level. A South West African Police force (SWAPOL) was established in a similar manner.

### ***1989 onwards***

83 In 1989, elections were held under UN supervision. South West Africa became independent (as Namibia) the following year and all South African police and military forces were withdrawn.

## **Categories of abuses**

84 Human rights abuses in South West Africa fell into the following categories.

### ***Political repression and imprisonment***

85 While SWAPO was never banned in South West Africa, many of its leaders were harassed, put on trial and imprisoned, either in South Africa or in South West Africa, despite the illegality of South Africa's presence and actions in the territory. South African legislation, including the Terrorism Act of 1967 (introduced specifically to try SWAPO leaders), the Internal Security Act (extended to South West Africa in 1976) and the Riotous Assemblies Act, were employed for these purposes.

86 Following the launch of the armed struggle in 1966, thirty-seven SWAPO activists and leaders were arrested and taken to Pretoria where they were held under the

Suppression of Communism Act until the Terrorism Act was passed. This legislation was made retrospective and the SWAPO activists were then tried under its terms. All of the accused reported being tortured, mainly through beatings and electric shocks. All thirty-seven were convicted. Twenty were sentenced to life imprisonment – nine, including Mr Andimba Toivo ya Toivo, to twenty years, while the others received lesser sentences. The trial was condemned as illegal by the UN Security Council. The long-term prisoners were sent to Robben Island to join South Africa's political prisoners.

- 87 After the Pretoria trial, most SWAPO political trials were held in South West Africa. However, until 1984, many of those convicted continued to be sent to Robben Island, where they were kept in the same dehumanising conditions as the South Africans, and sometimes subjected to additional abuses and beatings. By 1984, all South West African political prisoners on Robben Island had been released or transferred to gaols in South West Africa.
- 88 In contrast to the South African situation, no death sentence or judicial execution of a South West African was ever carried out for offences of a political nature. Death sentences were occasionally imposed but were always set aside for fear of incurring the further wrath of the international community.
- 89 Political repression in South West Africa was acute. The 1980 Ida Jimmy case, for example, provides a particular example of severe ill treatment. In 1980, the chairperson of SWAPO Women's Council in South West Africa, Ms Ida Jimmy, was sentenced to seven years in prison (subsequently reduced to five) for calling for support for SWAPO guerrillas at a public meeting. Although seven months pregnant, she was kept in solitary confinement in Windhoek Central Prison. Her baby boy was taken away from her at the age eighteen months, and given to the care of relatives. The boy died a year later. Ms Jimmy was refused permission to attend the funeral.
- 90 As in South Africa, the authorities restricted the movements of opponents through bannings or house arrest. One such victim was the acting president of SWAPO inside South West Africa, Mr Nathaniel Maxuillili, who was banned to Kuisebmond township in Walvis Bay for a seventeen-year period between 1968 and 1985, and prohibited from speaking at meetings or from being quoted by others.

## ***Detention and torture***

91 Detention without trial was widely used by the South African authorities in South West Africa, mainly for purposes of interrogation, which almost invariably and routinely involved torture. Much of this was carried out under emergency proclamations, notably Proclamation AG26 of 1978 (which provided for indefinite detention) and AG9 of 1977, which became more and more severe and allowed police and soldiers to detain people for up to thirty days without reference to any higher authority. In 1983, the SADF revealed that it had detained a total of 2 883 people during the 1977–83 period, while the security police disclosed that they had detained 2 624 people during the same period.

92 Mass detentions in the ‘operational areas’ were common. Many detainees were held secretly and without access to lawyers or relatives for long periods, sometimes years. Such conditions provided opportunities for prolonged abuse and torture. Torture was also used as a method of intimidation by police and soldiers in the war zone, and as a way of extracting ‘operational’ information quickly. Torture methods reported in the South West African press, in affidavits by South West Africans and as a result of international human rights investigations included beatings, sleep deprivation, drowning, strangling and suffocation, suspension from ropes or poles, burnings (sometimes over open fires), electric shocks and being held against the hot exhausts of military vehicles.

93 SWAPO’s Administrative Secretary in South West Africa, Mr Axel Johannes, was a victim of repeated detentions, torture and arrests. He was detained in 1964, 1966, 1973, 1974, 1975 (twice), 1977, 1978 (twice) and 1979 (twice). During these periods, he reported being repeatedly tortured and was often held *incommunicado* and in solitary confinement. After his final detention in 1979, restrictions were placed on his movements and he was prohibited from leaving the township of Katutura. He went into exile in 1980.

94 Captain Pat King of the South African Security Branch was charged in 1987 with the murder of detainee Mr Johannes Kakuva, who had been killed seven years previously. The trial followed international protests as a result of an official enquiry held in 1983, which had accepted the evidence of seven men detained with Kakuva that they had been assaulted and tortured. The men said that they and Kakuva had been beaten with sticks and subjected to electric shocks on King’s orders, resulting in Kakuva’s death. The trial ended with the acquittal of Captain King.

## **The case of the Chetequera/Mariental detainees**

An estimated 200 to 300 South West African refugees in Angola were captured by the SADF during the raid on Chetequera in 1978 and taken to Oshakati military base, where many were tortured. A year later, UN officials published the names of 130 people whom they said were still being detained, but this was met with a denial by the South African authorities. The position of these detainees was discussed at an SSC meeting on 23 April 1979 where it was noted that 119 of them were still being held at a camp (Keikanachab) near Mariental, a small town south of Windhoek. Of these, three were Angolan citizens while the rest were described as "Wambo's uit Suidwes-Afrika" (Owambos from South West Africa). Six were said to be members of MPLA, while the rest were described as "SWAPO-lede en geharde terroriste" (SWAPO members and hardened terrorists).

*The problem the SSC faced was what to do with them. They could not, in the SSC's view, be regarded as prisoners-of-war "omdat daar nie 'n staat van oorlog bestaan nie" (because a state of war did not exist). It was also noted that they were no longer providing any useful information and could not, due to their circumstances, be used as witnesses. In short, the document concluded "hulle het geen verdere nut vir die owerhede nie" (they were of no further use to the government). Even so, the meeting decided not to release the detainees, largely for fear of the propaganda SWAPO would make out of the incident and because the six MPLA members could be used "vir moontlike onderhandelings en ander diplomatieke doeleinades" (for possible negotiations and other diplomatic purposes).*

*The plight of these detainees was raised by the International Red Cross in 1980 which resulted a short while later in the release of a few of the prisoners – a full two years after their forcible abduction. However, in the case of the other 124, the status quo persisted for another five and a half years. Eventually, in 1984, three South West African bishops, supported by relatives of the detainees, brought an urgent application in the Windhoek Supreme Court for the detainees to be released. The court hearing was prohibited by the South African State President PW Botha, using powers under the Defence Act (section 103 ter (4)). They were, nonetheless, released in two batches in May and October 1984. They reported having been tortured and assaulted and forced to carry out hard labour. For close on seven years, they had been denied family visits and access to lawyers.*

THE ABDUCTION OF ANGOLAN CITIZENS AND SOUTH WEST AFRICAN REFUGEES FROM ANGOLAN SOIL, THEIR TORTURE AT THE OSHAKATI MILITARY BASE AND THEIR FORCIBLE DETENTION AT MARIENTAL WHERE THEY WERE DENIED BASIC RIGHTS AND FORCED TO UNDERTAKE HARD LABOUR AMOUNT, IN THE COMMISSION'S VIEW, TO ILL TREATMENT AND DEPORTATION TO SLAVE LABOUR AND, AS SUCH, TO GROSS VIOLATIONS OF HUMAN RIGHTS. FOR THIS, THE COMMISSION FINDS PRIME MINISTER BJ VORSTER, MINISTER OF DEFENCE, PW BOTHA, AND THE CHIEF OF THE SADF, GENERAL MAGNUS MALAN, TO BE RESPONSIBLE FOR THE PERPETRATION OF GROSS HUMAN RIGHTS VIOLATIONS IN THE CASE OF THE MARIENTAL DETAINEES. IT ALSO REGARDS AS INDIRECTLY RESPONSIBLE (*DOLUS EVENTUALIS*) ALL THOSE PRESENT AT THE SSC MEETING OF 23 APRIL 1979.

95 The extent of the torture of detainees and civilians caught up in military operations has been documented by numerous bodies:

- In 1981, a delegation from the British Council visited South West Africa and conducted extensive interviews with church and community representatives. They reported that torture and intimidation were widespread. Their documentation of more than twenty individual cases included incidents where corpses of alleged guerrillas were dragged through villages behind military vehicles.
- A 1982 visit by a delegation led by Archbishop Hurley from the Southern African Catholic Bishops' Conference (Bishops' Conference) detailed further cases of torture, based on interviews with 180 South West Africans. The Archbishop was subsequently charged under the Police Act for making this report and South African and South West African newspapers were threatened with prosecution if they published his statements. The charges were dropped after international protests.
- After 1982, the South West African Bar Council began to speak out about torture and assaults. It expressed shock and concern about the abuse of detainees, rapes and deaths in detention and the immunity and secrecy under which 'security force' members operated. It noted that detainees were often kept in makeshift corrugated-iron detention cells in the blazing sun and that, despite the many reported cases of torture, very few incidents were ever brought to court.
- In 1989 a Dutch group, acting on behalf of the inter-denominational faith group Kairos, undertook a mission to South West Africa to investigate torture allegations specifically relating to the activities of Koevoet.

96 The systematic pattern of torture, which was institutionalised as an operational military and policing technique, resulted in few prosecutions or official efforts to

eradicate the practice. Indeed, where military and police officials were found guilty, they were often given derisory sentences. In a 1984 case, two SWATF members were each fined R50 after being found guilty of assaulting sixty-three-year-old Mr Ndara Kapitango, whom they roasted over an open fire, causing extensive injuries. In another case in 1983, two *Koevoet* members were given similarly small fines after the death of a detainee, Mr Kadimiu Katanga, whom they had beaten with an ox yoke.

97 In general, police and soldiers could escape prosecution under section 103 of the Defence Act, which granted immunity to members of the security forces for any acts carried out under operational conditions, providing they were done "in good faith". South African State President PW Botha invoked this clause twice; first in 1986 to stop the trial of four soldiers accused of beating a detainee, Mr Frans Uapota, to death; and again in 1988 to stop the trial of six South African soldiers charged with the murder of SWAPO leader Mr Immanuel Shifidi, who was assassinated at a public meeting.

#### ***Extra-judicial executions and killings***

98 The powers granted to security force personnel, and the secrecy in which they operated, created conditions for summary executions and killings for which they did not have to account. Usually, inquests into deaths were not held in operational areas. When they were, they were usually brief and inadequate, and responsibility was commonly attributed to "persons unknown". It was common practice for the security forces to leave bodies where they lay or to bury them in shallow graves at the place of death.

99 *Koevoet* in particular kept no proper or official records of the identities, numbers or whereabouts of people it killed. It seems that the unit was only really interested in keeping scorecards of those it killed for bounty. These practices were confirmed by journalists who were allowed to travel with security force units, as well as by court testimonies by security force members. At the height of the war, in the early to mid-1980s, *Koevoet* alone claimed a kill rate of around 300 to 500 people a year, for which its members were paid a bounty per corpse. Rough 'body counts' were periodically issued by military headquarters, but there was never any independent confirmation as to whether these figures were accurate or whether the victims were civilians or SWAPO fighters.

100 The South African authorities refused to accord prisoner-of-war status to captured SWAPO combatants, despite the 1977 Protocol 1 to the Geneva Conventions, which extended the provisions of the Conventions to anti-colonial struggles and wars of national liberation and self-determination.

101 While combatants were initially put on trial and imprisoned (see above), there is considerable evidence that, as the war progressed, South African security forces, especially *Koevoet*, resorted increasingly to summary executions of captured combatants. The payment of bounty served as an incentive for the extra-judicial murder of captives. The representative of the International Committee of the Red Cross in South West Africa said in 1981 that "it simply does not happen in any conflict or battle that you have a clash with 200 people and forty-five killed and no prisoners or wounded are taken"<sup>3</sup>.

102 In other cases, captured combatants were kept in makeshift detention centres, such as the camp at Osiri, 160 kilometres north of Windhoek, where they were interrogated and often tortured. Reporters found that Osiri detainees were held in tiny corrugated-iron cages and were always blindfolded in the presence of their interrogators. Though periods of detention were limited to thirty days, detention orders could be renewed indefinitely, running into months and even years.

103 After the formation of *Koevoet*, it became standard practice to 'persuade' captured guerrillas to 'turn' and become *askaris* assisting *Koevoet* in the conflict against their former comrades. This was a practice pioneered by the Rhodesian Selous Scouts, the archetypal model for *Koevoet* and the unit within which most of *Koevoet*'s founding members had learnt their counter-insurgency skills. There is considerable evidence that the process of 'turning' was accompanied by torture and that the price of non-compliance was summary execution. Once 'turned', these *askaris* and other *Koevoet* members are said to have carried out atrocities while disguised as SWAPO fighters in order to discredit the liberation movement, as the Selous Scouts had done during the Rhodesian war.

104 One such incident occurred at the village of Oshipanda near Oshikuku in June 1983. A group of armed black men in camouflage uniforms raided the kraal of Mr Hubertus Mateus Neporo, a modestly prosperous shop-owner who was suspected of giving financial backing to SWAPO. They ransacked the kraal, stealing cash, clothes and a radio, and smashing the family vehicle. Neporo was away that night, but the rest of his family and other occupants of the kraal were lined up against a wall and shot. Neporo lost his wife, children, mother, brother and

<sup>3</sup> *The Star*, 18 August 1981.

friends – in all, eight civilians were murdered. The official line from the police, media and magistracy was that they were killed by ‘terrorists’. However, one kraal resident survived and identified the attacker as a certain Nakale from the Koevoet base at Okalongo. Within months of this incident, Koevoet members were reported to be boasting of this successful false-flag operation.

105 In an amnesty application, SADF conscript Mr Kevin Hall [AM1383/96] provides an insight into the brutal nature of the conflict with SWAPO as well as the routine use of torture. In May/June 1975, he was stationed at the Mapungeerela base in northern South West Africa. He recounts an incident where he was sent out on a seven-day patrol with instructions “to eliminate or arrest any terrorists”. On the first night of the patrol, the group was “attacked by unknown forces and came under heavy gunfire”. A lengthy gunfight ensued. In the morning, several bodies were discovered, as well as three badly wounded combatants. According to Hall:

*I realised that none of them could survive and to save them any further suffering I shot and killed the three of them. When I shot them, I turned my head away as I could not bear their suffering any more.*

106 Hall's action in killing the three was a gross violation of human rights for which he applied for amnesty. His commanding officer, whom he names but whom the Commission cannot identify as he has not applied for amnesty, is likewise accountable. So too is the command structure of the SADF at the time.

107 A day or two later, while on the same patrol, the group came across four unarmed “terrorists” and arrested them. On their return to base, the four were placed in a hole in the centre of the base “approximately eight foot square by about seven foot deep” which served “as a place of safekeeping of all arrested terrorists”. Hall continued:

*They were the only ones in the hole. Whilst I was guarding them some of the troops poured boiling water over their heads; another trooper of whom I cannot remember the name jumped into the hole and cut off the left ear and centre finger of the right hand of one of the [still living] prisoners.*

108 Amnesty applicant Captain Eugene Fourie [AM3767/96] was a member of the Security Branch of the SAP stationed in Oshakati between June 1980 and January 1982. His application covers the death of a “SWAPO terrorist” whom he was interrogating. Fourie describes how, after administering electric shocks,

the victim "het op 'n stadium inmekaar gesak en sy bewyssun verloor en hy is toe agterna oorlede" (collapsed at one stage and lost consciousness and later died).

- 109 Former security policeman Warrant Officer Paul Francis Erasmus [AM3690/96] served in Owamboland in 1981. He applied for amnesty for the murder of a suspected SWAPO medical officer and for "suspects who were tortured on a regular basis by myself and other SB [Security Branch] members with the full knowledge and consent of commanding officers".
- 110 Another former member of the Security Branch based at Oshakati, Warrant Officer John Deegan, gave a lengthy statement to the Commission on his experiences with the SAP and Koevoet in South West Africa and Angola. He describes visiting the Security Branch offices in Oshakati in January 1981 where a round-the-clock interrogation session had been underway for about a week.

*We would work in shifts and the prisoners were kept awake, beaten, shouted at, deprived of food and water and toilet facilities and electric shocks were applied ...*

- 111 He describes how, during this particular session, the base came under rocket attack. The interrogators reacted by severely assaulting the teacher they were questioning at the time. Deegan joined the assault. Later that night the victim died.

*When I was told about his death I was scared and realised that I was a murderer now, but the official lack of response to the incident made me realise that this had happened in reality before; no charges were brought against us and no official inquiry was ever held. Since then even to this day I have vivid nightmares about this man.*

### ***Killings, intimidation and harassment of civilians***

- 112 Civilians were routinely harassed, intimidated and beaten by security forces in the operational areas, especially by Koevoet members in pursuit of SWAPO guerrillas. Many were killed during such operations, either by accident (caught in crossfire) or deliberately. Sometimes the human rights abuses involved detention under emergency proclamations, although it was often difficult to determine when the emergency regulations had been invoked as, under their provisions, any member of the security forces could summarily detain any South West African. Often intimidation happened as a result of a belief that the local population were

assisting guerrillas and knew their whereabouts, although retribution against suspected SWAPO supporters was also a factor. The Bishops' Conference reported in 1982:

*The Security Forces stop at nothing to force information out of people. They break into homes, beat up residents, shoot people, steal and kill cattle and often pillage stores and tea rooms. When the tracks of SWAPO guerrillas are discovered by the Security Forces, the local people are in danger. Harsh measures are intensified. People are blindfolded, taken from their homes and left beaten up and even dead by the roadside. Women are often raped ... There is no redress because reporting irregularities or atrocities to commanders is considered a dangerous or fruitless exercise<sup>4</sup>.*

- 113 In 1986, in a 'false-flag operation' that went awry, a group of reccees placed a bomb near a bank in Oshakati and detonated it. The intention was to make it look like a SWAPO operation in order to justify harsh measures planned against the organisation. The bomb killed one bank employee who turned out to be the wife of a member of the same Recce detachment. No charges were ever brought.
- 114 During 1973, following mass detentions in Owamboland, the SAP began to hand over alleged SWAPO supporters to the bantustan authorities. After cursory hearings, the victims were publicly flogged with *epokolos*, the central ribs of *makalani* palms. Both women and men were subjected to these 'traditional' punishments, which resulted in extensive cuts and bruising, as well as public humiliation.
- 115 Dusk-to-dawn curfews were imposed on much of northern South West Africa for most of the duration of the war, although the application varied from time to time and from place to place. This was a major grievance of the local population, as the curfews caused considerable disruption of day-to-day life, and also gave rise to many killings and assaults as troops and police tried to enforce restrictions on movement. In some areas, security force members were under orders to shoot on sight during curfew hours, and there are many reported incidents of civilians being shot while going to the toilet, seeking medical attention or looking for livestock after dark.

### **Special Operations K Unit of the South African security police (Koevoet)**

*The crowbar which prises terrorists out of the bushveld like nails from rotten wood. (Minister of Law and Order, Louis le Grange.)*

<sup>4</sup> Kairos report on Namibia.

*We were basically automatons. We would just kill. That's how we got our kicks. We were adrenaline junkies. (John Deegan, 1997.)*

116 The police unit *Koevoet*, as noted above, was responsible for many human rights abuses in South West Africa. The unit was set up by Brigadier Hans Dreyer of the SAP Security Branch in June 1979. While its officers were mainly white South African policemen, the unit recruited mostly from the local black South West African population and eventually numbered about 1 000. Cast in the mould of the Portuguese *Flechas* and Rhodesian Selous Scouts, *Koevoet* was established as a mobile unit, using specially designed Casspirs (armoured personnel carriers) to gather intelligence, track guerrillas and then kill them.

117 *Koevoet* was established as a consequence of a failed attempt to create a South West African surrogate force along the lines of RENAMO (the Mozambique National Resistance). This project, known as *Operation Vanguard*, involved the training of local Owambos at Fort Doppies in the Caprivi but failed when it could make no inroads in Owamboland because of overwhelming local support for SWAPO. Once *Vanguard* was abandoned, a small group of locals, many 'turned' ex-SWAPO fighters (known locally as *makakunyanas* which means literally blood suckers) and former members of the Front for the National Liberation of Angola (FNLA), were selected and trained as the nucleus of *Koevoet*. Over time, other groups were established, each made up of ten to fifteen *makakunyanas* under a white officer with considerable counter-insurgency experience. At its largest, *Koevoet* comprised approximately 250 white officers and 750–800 Owambos.

118 Speaking in Parliament in Cape Town in 1984, in the only public debate ever permitted on the activities of this unit, Minister le Grange explained the reasons for its formation:

*As ... the ordinary conventional methods of warfare appeared to be ineffective in combating terrorism in Owambo and the rest of South West Africa, it was decided after consultation between the SADF ... and the SAP to form a special unit to gather information and make it possible for the security police to track down and wipe out terrorist gangs ... [W]ith the passage of time it became clear that the initial basis on which the unit had come into existence, and according to which it would transmit all information it obtained about terrorist movements to the combat units of the security forces while the latter would carry out the pursuit operations, gave rise to problems in practice ... the unit in due course began to operate as a combat unit<sup>5</sup>.*

<sup>5</sup> *Hansard*, 2 May 1984.

119 Koevoet was in many respects an archetypal counter-revolutionary unit, a means of fighting fire with fire. Its top echelon comprised battle-hardened veterans of the Rhodesian war. Amongst these were Dreyer, Colonels Eugene de Kock and Eric Winter, Captains Sakkie van Zyl and 'Beachball' Vorster, Lieutenant Frans Conradie and Warrant Officer 'Snakes' Greyling. Koevoet soon gained a reputation for brutality, largely because of its methods of interrogating local people, which invariably involved torture, and for the way its members careered around the operational areas in Casspits, laying down heavy fire, flattening fences, driving straight through fields of crops, and even people's homes, whenever they suspected a guerrilla contact.

120 In his amnesty application, Lance Corporal Sean Callaghan [AM4026/96] described his experiences on attachment to Koevoet:

*A Koevoet team spent a week in the bush and a week back in camp. I think I was in a contact every week. There was a scoreboard and a map in the operations room in the Koevoet base and on the weeks that we were not in the bush, we were checking the scores of the teams that were in the bush. Koevoet was much more effective than SADF units because of its bounty policy.*

121 Koevoet's operational mode involved monetary rewards for killings, captures and the discovery of arms on a graduated scale which rated and rewarded killings most highly. Corpses were also used for purposes of spreading terror and intimidating villagers. Callaghan described another incident:

*I can remember ... loading bodies onto and off Casspits. After a contact bodies were tied onto spare tyres, bumpers, mudguards and were left there until we got back to the base camp, until they could be unloaded. This could be days of driving through thick bush, and the skin could be worn right off the bodies.*

122 Space does not permit a detailed description of the violence and torture used by Koevoet. However, the Kairos report contains extensive documentation on physical beatings, the destruction of property, sexual assault and various forms of torture (such as solitary confinement, hooding, electric shock, submersion in water, mock burials, mock executions, roasting over fire, and sleep, food and water deprivation) as a means of coercion, intimidation and the extraction of information. Rape was common, and women and girls of all ages were victims. In the Kairos documentation is an account of the rape of an eighty-year-old woman by a Koevoet member, and one referring to the rape of a four-year-old girl.

## The case of Jona Hamukwaya

*Mr Jona Hamukwaya was a thirty-year-old teacher in western Kavango province when he was detained by Koevoet on 18 November 1982. He died the same day.*

*Hamukwaya was arrested by a Koevoet team headed by Sergeant Norman Abrahams. Abrahams claimed that Hamukwaya was initially taken to a river close to the school from which he had been taken, and briefly interrogated. He was then taken to a police station at Nkurenkuru where, according to Koevoet members, he slipped on the top step of a seven-step stairway and hit the concrete floor with his head. Though he appeared initially to be unhurt, some twenty minutes later, according to Abrahams, he started "making gurgling sounds ... I tried to give him chest massage. I was under the impression that he was having a heart attack ... then I found that he had already expired."<sup>6</sup>*

*Hamukwaya's wife and other villagers gave a different version. They claimed that, while washing clothes in the river, they heard sounds of beating and screams which Mrs Hamukwaya recognised as coming from her husband. When she and others tried to go to his assistance, they were prevented from doing so by three Koevoet members.*

*Hamukwaya was a prominent community member and his case received considerable prominence and was taken up by a number of groups. The services of pathologists from Groote Schuur hospital in Cape Town were acquired and the Catholic Archbishop of Durban, Denis Hurley, criticised Koevoet for atrocities committed against the civilian population of northern South West Africa, specifically citing this case. For this he was charged with the offence of "falsely accusing the police".*

*At the inquest, the pathologists testified that Hamukwaya's injuries "were incompatible with the story of the fall"<sup>7</sup> and that he had been "subjected to massive trauma on his back, probably inflicted by a blunt instrument"<sup>8</sup>. This evidence was accepted by the magistrate who ruled that the death "was caused by "an act or omission that must be seen as a crime on the part of members of the unit known as Koevoet".*

<sup>6</sup> Denis Herbstein and John Evenson, *The Devils are among us: The war for Namibia*, London: Zed Books, 1989, p. 91.

<sup>7</sup> Kairos report, pp. 26–7.

<sup>8</sup> Herbstein and Evenson, p. 91.

*Despite this ruling, no charges were ever brought. Ms Hamukwaya sued the security forces for compensation and was paid R58 000 in an out-of-court settlement. The charges against Archbishop Hurley were dropped.*

- 123 In operational terms, *Koevoet* was a highly effective unit. It is said to have achieved a killing ratio of some one to twenty-five. According to an article by Mr Helmoed Heitman in *Armed Forces* (December/January 1984), in its first year of operations *Koevoet* lost twenty-three members and killed 511 "insurgents" – a killing ratio of one to forty-two.
- 124 A document supplied to the Commission by a one-time *Koevoet* member gives details of 1 666 "contacts" over a ten-year period by some 250 white former officers and is positive proof that the bounty system encouraged the killing of opponents and discouraged the taking of prisoners. Of these *Koevoet* members, fourteen were involved in more than one hundred contacts. One member, Warrant Officer L Kilino, notched up 221 contacts in which 346 people were killed and only twenty-three captured. For an unknown reason, this document did not include Eugene de Kock, who put his number of contacts at about 400.<sup>9</sup> He gives no details of his killing rate but popular legend has it that it was the highest of all *Koevoet* operatives.
- 125 *In toto*, these fourteen officers were involved in 1 754 contacts in which 3 323 individuals were killed (an average of nearly two per contact) and only 104 prisoners were taken. The ratio of prisoners to fatalities was thus in the region of 1:32. Heitman describes as *Koevoet's* "most successful single contact" an encounter in which "34 out of 34 insurgents"<sup>10</sup> were killed.

THE COMMISSION FINDS THAT THE *KOEVOET* UNIT WAS RESPONSIBLE FOR THE PERPETRATION OF GROSS HUMAN RIGHTS VIOLATIONS IN SOUTH WEST AFRICA AND ANGOLA. THESE VIOLATIONS AMOUNTED TO A SYSTEMATIC PATTERN OF ABUSE WHICH ENTAILED DELIBERATE PLANNING BY THE LEADERSHIP OF THE SAP. THE COMMISSION FINDS THE SOUTH AFRICAN GOVERNMENT, THE SAP AND THE MINISTER OF LAW AND ORDER ACCOUNTABLE. THE COMMISSION FINDS FURTHER THAT THE BOUNTY POLICY OF THE SAP, BY WHICH MEMBERS OF *KOEVOET* WERE MONETARILY REWARDED FOR CERTAIN OF THEIR ACTIONS, SERVED AS A POSITIVE INDUCEMENT FOR THE COMMISSION OF GROSS VIOLATIONS OF HUMAN RIGHTS, INCLUDING KILLING.

### **Pre-election events in 1989 and the assassination of Anton Lubowski**

- 126 The New York Accords signed on 22 December 1988 set in motion the implementation of UN Resolution 435 adopted ten years earlier. Actual implementation by

<sup>9</sup> In his book, *A Long Night's Damage*.

<sup>10</sup> Heitman, p. 12.

a United Nations Transitional Assistance Group (UNTAG) was set to commence on 1 April 1989, culminating in an election seven months later. The agreement also provided for a cease-fire, a phased withdrawal of Cuban and South African troops from Angola and South West Africa/Namibia respectively (to be completed only after the election), the dissolution of *Koevoet* and the deployment of both SWAPO guerrillas and South African forces to designated assembly points or bases.

- 127 With its acceptance of 435 and the end of the armed phase of the conflict, the South African government reverted to other methods – developing a multi-faceted effort to weaken and damage SWAPO and disrupt its electoral campaign. This took a number of forms.

#### ***Breach of the cease-fire agreement***

- 128 The first of these was the breach of the cease-fire agreement. On 1 April, UN forces moved into South West Africa/Namibia to oversee the transition process. From that day on, both SWAPO and the South African forces were expected to abide by the cease-fire and be confined to base. Instead, the launch of this new era was marred by a series of military battles across a 320-kilometre front in Owamboland. The fighting was prompted by what the South African government referred to as a large-scale SWAPO incursion from Angola. The new UN administration conceded to pressure from British Prime Minister Margaret Thatcher and South African Foreign Minister Pik Botha and permitted the redeployment of *Koevoet* and other military units into northern South West Africa/Namibia.
- 129 SWAPO denied the allegations of an incursion and claimed its guerrillas had crossed the border to link up with UNTAG elements who, in turn, were to deploy them to the bases in terms of the New York agreement.
- 130 Whatever the cause of the fighting, the consequence was the death of more than 300 South West Africans. While the South African authorities argued these were all SWAPO combatants, local residents claimed that some of the dead were civilians. There is *prima facie* evidence that some of the dead may have been summarily executed as many of the victims had single bullet holes to the back of the head. It is possible that some or many of these were SWAPO prisoners shot on the day they were scheduled for release. This suspicion is expressed in the statement of Sean Callaghan:

*One of the real questions I have in my mind is what happened to these people when Koevoet pulled out. My suspicion is that they were assassinated ... I further suspect that when Koevoet went on their last killing rampage, breaking*

*the UN cease-fire in April 1989, that these prisoners were killed at the same time. The reason I think this is because it was their last opportunity to get rid of them. I can't believe they let them all go free.*

131 The Commission has not been able to verify this suspicion.

### ***Operations Heyday and Victor***

132 A second dimension to the South African government's manipulation of the election took the form of covert disinformation campaigns. Secret funds amounting to R185,5 million were made available and used both to promote the electoral chances of the Democratic Turnhalle Alliance (DTA) and to damage those of SWAPO. This was a multi-departmental effort involving the SADF, security police, National Intelligence Agency, Department of Foreign Affairs and Department of Information.

133 *Operation Heyday* was the SADF's contribution to the campaign, and was allocated R125 million – 70 per cent of the total. Run by Brigadier Ferdi van Wyk, it involved gathering intelligence on SWAPO members and supporters for use in disinformation campaigns, intimidating SWAPO's supporters, disrupting SWAPO's election meetings and so on.

134 Another component of the SADF's contribution was a sophisticated media centre run by Major Nico Basson of the South African Army Troop Information Unit. Set up on the authority of the then chiefs of the SADF and army, Generals Geldenhuys and Liebenberg, it operated in civilian guise from an up-market Windhoek hotel. Basson's Africa Communications Project became the first point of reference for the foreign media and UNTAG officials.

135 *Operation Victor* was the security police's contribution, to which R36,5 million was allocated. Run by Brigadier Hein Oliver, it involved the setting up of two front companies through which vehicles and vast amounts of office equipment were purchased. In order to make it appear as if one of these companies, the Namib Foundation, was supported by public contributions, a member of the security police was sent from Pretoria to Durban depositing amounts ranging from R1 to R10 000 in every bank *en route*.

136 A large proportion of the 450 vehicles purchased for the campaign were used by ex-Koekoet members to transport residents of Owamboland to the election meetings of parties opposed to SWAPO.

## **Aksie Kontra 435**

137 There is also evidence that these funds were used to mobilise the white right wing, which formed an organisation called *Aksie Kontra 435*. One of its members, Mr Horst Klenz, applied for amnesty [AM0316/96] for his involvement, with two others, (Mr Leonard Veneendal and Mr Darryl Stopforth) in a grenade attack on an UNTAG regional office at Outjo in northern South West Africa during which a security guard was killed. Arrested soon afterwards, the three escaped back to South Africa when the police van in which they were travelling was ambushed by two white men (known to the Commission only by the pseudonyms of 'Archer' and 'Barker') who killed one of the police escorts<sup>11</sup>.

138 All five were arrested in South Africa and held *incommunicado* under section 29 of the Terrorism Act. No charges were ever laid and they were all eventually released. During their detention the five were never interviewed by South West African authorities.

## ***CCB covert operations***

139 Another dimension involved the deployment of CCB members to South West Africa. Testimony in regard to the CCB operation was given to the Commission by the CCB's intelligence head, Colonel Christoffel Nel. He told the Commission:

*Prior to the election in Namibia all the regions [of the CCB] were told to do something there. No matter where you worked. And this was a recipe for disaster. Because people who used to work in Europe now had all of a sudden to do covert work in Namibia. Where it normally takes about five years to get a covert system set up, these guys had to do this overnight. And it was not surprising when a kitbag full of limpet mines was found in northern Namibia with a Special Forces' golf membership card in it. It was not surprising to see [people] roaming the blocks around Anton Lubowski's house and still the confusion today about who shot him. Because it could have been anybody from any of these other regions. I was in region one [Botswana] and region four [Angola, Zambia and Tanzania] primarily, we were doing a job in northern Namibia. We had no interest, we had no knowledge of the area but we had to do it. Because we were told double up your production and you will get a production bonus.' (Section 29 hearing, 18 May 1998.)*

140 There is evidence in the Commission's possession that the task of attacking the UNTAG facility was assigned to a senior CCB member. Captain Pieter Botes.

<sup>11</sup> The amnesty application of Klenz had not been heard at the time of writing.

whose area of CCB responsibility was Swaziland and Mozambique. He was assigned five operatives for the mission. As noted above, five detainees were held in South Africa in connection with the UNTAG case.

### ***The killing of Anton Lubowski***

- 141 On 12 September 1989, Advocate Anton Lubowski was shot dead outside his home in Windhoek. At the time, he was the secretary general of SWAPO and the highest-ranking white person in the organisation. One human rights violation submission and two amnesty applications were made to the Commission on this case. The human rights violation submission was made by Ms Molly Lubowski, the deceased's mother. She appealed to the Commission to identify her son's killers and to clear him of allegations that he was a South African MI agent.
- 142 Considerable attention was given to this case, including a trip to Namibia and meetings with the judicial authorities there. A vast amount of documentation was supplied to the Commission by various parties.
- 143 Neither of the amnesty applications – by Mr Derrick Nielsen [AM 4792/97] and Mr Horst Klenz [AM0316/96] – provided any evidence of substance. Nielsen originally applied for amnesty for the murders of both Lubowski and David Webster but supplied no details. Later he sent letters to the Commission. In one of these, dated 4 December 1996, he alleges that he supplied an AK-47 to Mr Ferdi Barnard for "a hit" and that three days later Barnard "bragged that they had got rid of a *kafferboetie*". He said that the name Lubowski was mentioned. The Commission paid several visits to Pollsmoor prison where Nielsen was serving a sentence for a traffic offence in 1997, but he refused to discuss his application and divulged no further details. His main interest seemed to be to bargain information for a speedy release. Given these facts and the developments pertaining to the Webster murder, the Commission is of the view that little credence can be given to this application.
- 144 Horst Klenz's application contained only some hearsay information to the effect that SWAPO had killed Lubowski but contained no corroborating evidence.
- 145 In an amnesty application [AM1909/96] not directly related to this murder, Mr Kevin Trytsman, an associate of Ferdi Barnard, claimed that Barnard had told him that the CCB had committed the murder. This is also the view of Christoffel Nel as expressed in the quote cited earlier. Elsewhere in his hearing, Nel described the

Lubowski murder, along with the killings of Ms Dulcie September and Mr David Webster, as one of the CCB's "successes".

146 This was also the conclusion of Judge J Levy of the Namibian Supreme Court, who conducted a lengthy inquest into the case. In a 144-page judgement, Levy named Irish mercenary Donald Acheson as the assassin and, as accomplices, CCB members Joe Verster, Staal Burger, Abraham 'Slang' van Zyl, Calla Botha, Leon 'Chappies' Maree, Johan Niemoller jr, Captain Wouter Basson (aka Christo Britz), Ferdi Barnard, and Charles Wildschut (formerly Neelse).

THE COMMISSION BELIEVES THERE ARE NO GROUNDS TO CONTRADICT JUDGE LEVY'S GENERAL FINDING PERTAINING TO THE INVOLVEMENT OF THE CCB AND ITS RESPONSIBILITY FOR THE CONSPIRACY THAT LED TO THIS KILLING.

147 The evidence of the CCB's intelligence head, Christoffel Nel, is regarded by the Commission as important corroborating evidence of the CCB's role.

148 It is well established that the CCB was set up as a covert grouping with the purpose, among others, of killing political opponents. So, too, is the fact that prior to Lubowski's killing, such opponents were subject to extensive 'target identification' or intelligence-gathering operations. It has been established that Lubowski was the subject of such an exercise, an operation conducted by the West Front (South West Africa and Angola) section of the Directorate of Covert Collection (DCC) then headed by Brigadier Koos Louw. His deputy, Major Geoffrey Burton Price (aka Arthur Wilshire), was in charge of the South West African arena.

149 The actual eavesdropping operation was undertaken by Lieutenant Johan Frederich Verster, who provided this information to the Commission<sup>12</sup>. Verster was still running the surveillance/eavesdropping exercise at the time Lubowski was shot. He told the Commission that he was shocked by the killing "because we were busy recruiting him and it was the wrong person ever to have shot". He was instructed to return to South Africa immediately after the shooting.

*When I got into Pretoria I was summonsed to go and see Koos Louw ... and also Tolletjie Botha [head of DCC]. I explained to them what had happened ... They went to an office with me ... he [Botha] picked up the telephone and he phoned South West Africa, the head of the Prison Department and also the Police and he said we'll have to use the old boys network ... they phoned up the Brigadier in South West Africa and asked what happened, have they got Acheson? They said yes, they have ...*

<sup>12</sup> Transcript, interview 4 July 1997, pp. 29–37.

150 This would seem to lend credence to the view expressed by Judge Levy that Acheson was the assassin. The Commission had some reservations about this view. Its investigation suggested that, although Acheson may have been the intended killer and was certainly in the vehicle used for the operation (probably the driver as he had hired the vehicle, a red Toyota Conquest), the fatal shots may have been fired by a passenger, who was probably his CCB handler for this operation. The Commission has been given the handler's name but lacks the corroborative evidence to name him as the killer.

151 In a statement to the police which is in the possession of the Commission, Acheson denied that he killed Lubowski. He confirmed that he had been recruited by Chappies Maree and Ferdi Barnard into an organisation which he later learnt was the CCB, and deployed to South West Africa, where he said that one of his tasks was to kill Ms Gwen Lister, the editor of *The Namibian* newspaper, regarded by South African security as a pro-SWAPO organ. He was to use "slow acting poison which could be injected into her toothpaste, placed on her Tampax or put into anything she would eat or drink ... she would keel over in forty-eight hours". Although he tried to fulfil his assignment, he said he was unable to access her household. After his release and return to South Africa, Acheson said he was paid R20 000 and US\$ 4 000 and sent to a hideout in the Greek islands where he remained for several months.

152 The allegation that Lubowski was a paid informer for MI was first voiced by General Magnus Malan in 1990 – in Parliament, where he enjoyed the protection of parliamentary privilege. Appearing before the Commission in 1997, he repeated the statement. One of Malan's sources for this allegation may have been Brigadier Koos Louw, the head of the West Front of DCC. When Louw was interviewed by investigators from the Commission, he claimed to be Lubowski's handler. He refused, however, to divulge the names of any other handlers and stated that all the documents pertaining to Lubowski had been destroyed.

153 Louw also stated that he paid a sum of R100 000 into Lubowski's account in June 1989 through Global Investments, an MI front company. Despite the alleged destruction of the Lubowski documents, Louw was able to produce the original microfiche of the bank clearing house that processed the payment. Further, Lubowski never used this money. This would seem strange given the claim put out by MI that he was in financial difficulties, a factor which they claim was used to recruit him.

154 The allegation is not universally accepted, even by some MI members themselves. Verster, who worked in Louw's DCC section, claims that the documentation was forged:

*Signatures were made by Anton and that was carefully changed by artists inside Military Intelligence to make it look like Anton was an agent of ours. But the reports that I had given in, also the tapes and the conversations that I had listened to, was never (sic) that Anton was an agent. Because why, if Anton was an agent, why would Bleny (nickname for Army Intelligence, GS2), the heart of it, want all the tapes and information about him, and the inside stuff.*

155 Verster's doubts were echoed by Major Nico Basson, who was running a disinformation campaign at the time of the killing. Basson's view is based on the fact that Lubowski had rejected his offer of R250 000 to leave SWAPO and join the DTA. Operative Clive Brink, who operated in South West Africa in the pre-election period, also expressed scepticism and stated that the paying of money into bank accounts to compromise recipients at a later date was a not unusual intelligence practice.

156 This latter view is shared by Mr Julian Knight, the Lubowski family lawyer, who argued that the payment was made either as an anticipatory cover-up, a pre-arranged alibi for the planned assassination, or fraudulently as part of a post-killing cover-up.

157 Finally, the Commission took note of two factors. The first is the lack of consensus on this issue among those connected to MI structures in South West Africa. The second is a question as to why the agency would have paid a considerable sum of money to someone they were on the point of killing.

**THE COMMISSION FINDS THAT THE ALLEGATION THAT MR ANTON LUBOWSKI WAS A PAID INFORMER OF SOUTH AFRICAN MILITARY INTELLIGENCE IS UNPROVEN AND THAT HE IS CLEARED OF THE ALLEGATION.**

**THE COMMISSION FURTHER FINDS THAT THE ACTIVITIES OF THE SADF AND THE SAP IN THE FORMER SOUTH WEST AFRICA BETWEEN 1966 AND 1989 LED TO GROSS VIOLATIONS OF HUMAN RIGHTS ON A VAST SCALE. THE COMMISSION FINDS THAT SUCH ACTIVITIES CONSTITUTED A SYSTEMATIC PATTERN OF ABUSE WHICH ENTAILED DELIBERATE PLANNING ON THE PART OF THE FORMER CABINET, THE SSC AND THE LEADERSHIP OF THE SAP AND SADF. THE COMMISSION FINDS THAT THESE INSTITUTIONS AND THEIR MEMBERS ARE ACCOUNTABLE FOR THE AFORE-SAID GROSS VIOLATIONS OF HUMAN RIGHTS.**

## ■ POLICE AND MILITARY COUNTER-INSURGENCY OPERATIONS IN ZAMBIA

158 *Operation Platford* involved training by the SADF of a surrogate force for operations in Zambia in the early 1970s. At the Commonwealth heads of state meeting in 1981, the Zambian Foreign Minister claimed that between 500 and 600 Zambians were being trained in the Caprivi for operations inside Zambia. There is no evidence to support the claim. While there certainly were foreign nationals being trained in the Caprivi for military operations in the region, they are more likely to have been Mozambican members of RENAMO than large numbers of Zambian dissidents.

159 Zambia was a target of South African aggression. Between 1978 and 1980, the SADF undertook several conventional military operations inside Zambia, aimed largely at SWAPO installations in the Western Province. The first occurred after a SWAPO rocket and mortar attack on the SADF headquarters base at Katimo Mulilo in the eastern Caprivi in which ten servicemen were killed. The SADF responded by sending combat units 250 kilometres inside Zambia to attack SWAPO camps.

160 During the SADF's *Operations Saffran* and *Rekstok* in 1979, SWAPO bases in Western Zambia were again attacked. The recurring nature of these attacks in 1979/80, and the civilian casualties they caused, as well as the disruption to rural life (burning of crops, poisoning of local water supplies, killing of cattle, mining of roads) led SWAPO to abandon its camps adjacent to the Caprivi and move further north. However, with Western Zambia under virtual occupation by two SADF battalions for nine months after Zimbabwe's independence in April 1980, and with malnutrition and starvation rife, the Zambian government eventually banned SWAPO from operating any military bases in the country – an early success for the strategy of counter-revolutionary warfare. What was also significant, and a lesson the SADF noted, was that this success owed more to the disruption to civilian life than to the damage inflicted on the military capacity of the 'enemy'.

161 With SWAPO now concentrating its military facilities in Angola, large-scale SADF operations inside Zambia largely ceased. One exception was the SAAF raid near Lusaka in May 1986.

162 Further information supplied to the Commission by the NIA revealed that, as of June 1985, four people were being held in Zambian prisons for spying for South Africa. Two were current members of the SADF, one a former SADF member and

the fourth a Capriviyan working for South African MI. One of the SADF members was Sergeant Isaiah Moyo, a former member of the Rhodesian African Rifles, who had joined the SADF after 1980 and who was placed in Zambia by MI in about 1984/5. He was sentenced to twenty-five years for spying but released in 1991.

## ■ POLICE AND MILITARY COUNTER-INSURGENCY OPERATIONS IN PRE-INDEPENDENCE RHODESIA AND IN ZIMBABWE

- 163 From the time of the unilateral declaration of independence in Rhodesia in November 1965, the security situation in that country was a major concern of the South African government. With the launch of joint ANC/ZAPU<sup>13</sup> military operations in areas of north-west Rhodesia in August 1967, South African police units were deployed inside Rhodesia where they stayed for the next eight years. As a gesture of support for the 1975 Kissinger diplomatic initiative over Rhodesia, South Africa withdrew its police units but left behind all its equipment, which included helicopters, Dakotas, small arms and ammunition. In addition, the South African government met the costs of 50 per cent of the Rhodesian defence budget for 1975–76. This was followed by *Operation Polo*, a secret agreement in terms of which the SADF assisted in the construction of five new military air-fields in Rhodesia.
- 164 By 1978 the SADF was supplying sophisticated Mirage III fighters and Impala strike planes, as well as Alouette and 'Huey' helicopters. It was also secretly deploying troops into southern Rhodesia from bases inside South Africa and sending conscripts to Rhodesia to fight in local uniforms as 'members' of Rhodesian army units.
- 165 Colonel Craig Williamson told the Commission (3 February 1998) that the South African Security Branch also funded out of its secret account the police counter-insurgency unit, the Selous Scouts, in which numerous SAP members also served.
- 166 At its meeting on 26 March 1979, the SSC approved both the setting-up of a Rhodesian Joint Management Centre (JMC) to operate from the South African diplomatic mission in Salisbury, as well as a short-term strategy for Rhodesia. This recommended, *inter alia*, clandestine support (logistic as well as special forces) for the Rhodesian security forces. In July 1979, the SSC approved a stepping-up of military assistance, including covert air support for offensive measures against

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13 Zimbabwean African People's Union.

'terrorist' and other targets in their host states ("*gasheerlande*"); unspecified military support with electronic warfare; aerial reconnaissance and support of special operations undertaken by the Rhodesian forces.

167 Six weeks later, at an SSC meeting on 27 August 1979, General Malan reported that the situation in Rhodesia had reached a watershed and that it needed further military help. As a result, the SSC authorised special clandestine actions, ordering that these be mounted within the context of a co-ordinated strategy. To this end, it established a Mozambican JMC comprised of representatives of the SADF, the Department of Foreign Affairs (DFA), South African Railways (SAR), the National Intelligence Service (NIS), the South African Broadcasting Corporation (SABC), the SAP and the Departments of Finance, Trade and Industry and the Information Service. The presence of the SABC should be noted.

168 Special Forces operative Johan Verster told the Commission that, in 1979, he participated in parabat attacks on guerrillas moving into the cease-fire assembly points in the Tshipise Tribal Trust area. His group operated from a camp "on the side of the river at Gumbu Mine" in Botswana. The attacks, Verster claimed, were ordered by "military headquarters" using intelligence provided by the Selous Scouts.

169 These attacks may have been prompted by the fact that ANC/MK guerrillas were infiltrating Zimbabwe along with returning ZIPRA<sup>14</sup> fighters. A list of ANC members who died in exile was supplied to the Commission and includes the names of fourteen "comrades killed in Rhodesia in 1979". It is possible they were victims of these attacks.

170 Most of the ANC infiltrators were eventually returned to Zambia by the new government, but it was largely in response to this MK inflow that the SADF moved a unit of its troops through the Beit Bridge border post towards the end of 1979. According to Mr Pik Botha's statement to the Commission, the movement of troops across the bridge was done with the concurrence of the Muzorewa Government.

171 In the run-up to the March 1980 pre-independence election, Rhodesia remained at the top of the SSC agenda. Excerpts from the minutes of the SSC meeting of 28 January 1980 provide an insight into the state's strategic thinking at the time. General Malan asked what would be done if Rhodesia "*verkeerd gaan*" (goes wrong) and argued that Rhodesia and South West Africa were key to South Africa's defence. Arguing for a proactive defence strategy, he asserted that the country's first line of defence had to be beyond the Republic – "*ons*

<sup>14</sup> Zimbabwe People's Revolutionary Army.

*moet die tyd en die plek kan kies*" (we must be able to choose the time and place). Mr PW Botha assured the General that the meeting shared his views, arguing that "*as ons op die Limpopo en die Oranje veg, kan die vyand ons hartland aanval*" (if we fight on the Limpopo and the Orange rivers, the enemy can attack our country).

- 172 Early in February 1980, the SSC dispatched a special task team to review the situation in Rhodesia. The most significant of its ten recommendations read: "*Die implikasie van eliminasie van politieke figure in Rhodesië moet voortdurend onder oë gehou word*" (The implication of the elimination of political figures in Rhodesia must be constantly kept in mind.) There is an ambiguity about this statement in that the reference could be to other countries' attempts to assassinate Mr Robert Mugabe. This was the interpretation that both Mr Pik Botha and Dr Niel Barnard gave in their appearances before the Commission and there is no evidence to suggest that South African security forces ever attempted to assassinate Mugabe in the period prior to the election.
- 173 The South African government raised in excess of R12 million in support of Bishop Muzorewa's United African National Council (UANC) in the March 1980 election, approximately half of which came from state coffers, while the rest was raised from the private sector by Foreign Minister Pik Botha. At independence in April 1980, the government of Zimbabwe inherited a total debt over R4 000 million which South Africa was to insist be repaid. Moreover, the long tradition of direct South African involvement in the country's security affairs did not end at independence: it merely changed its form.

## **Surrogate-force insurgency operations**

- 174 The SADF's surrogate-force operations in the 1980s fell under the Directorate of Special Tasks (DST) in the office of the chief of staff intelligence (CSI). (These bodies are discussed in more detail elsewhere in this volume).
- 175 The DST had its origins in the 1976 decision to channel assistance to UNITA (*Operation Silwer*) and a special office was set up in Rundu headed by Colonel (later Major General) Marius Oelschig. In the early 1980s, DST was set up and located as a secret project in Pretoria. Its first head was Colonel (later Brigadier) 'Cor' van Niekerk, who was also responsible for managing the RENAMO project in the early 1980s. By the mid-1980s, DST had been incorporated into the Operational Intelligence Directorate headed by General Niels van Tonder. In the mid-1980s, DST developed an internal dimension in the form of Operations *Marion* (assistance to Inkatha) and *Katzen* (targeted at the Transkei and Ciskei).

### **Zimbabwe: Operation Drama**

176 The outcome of the independence election was not quite the worst-case scenario feared by South Africa. That would have been a ZAPU victory. Nonetheless, the failure of Muzorewa's UANC to secure a place in the ZANU/ZAPU coalition was a setback. Its initial public response was diplomatically correct; its covert response was counter-revolutionary. At its first post-election meeting on 10 March 1980, the SSC declared Messina an "SADF operational area". This was in order to give the SADF "*meer beweegruimte*" (more room to manoeuvre) to facilitate the clandestine transfer of RENAMO to South Africa which, according to the SANDF's second submission to the Commission, began in March 1980.

177 The deployment of RENAMO was part of a much larger exercise involving the transfer to South Africa of various parts of Rhodesia's pre-independence security apparatus. This included several hundred black members of Bishop Muzorewa's Security Force Auxiliaries who were deployed to a farm near Pretoria. Simultaneously, the SADF launched *Operation Winter* to recruit mainly white members of Rhodesia's various counter-insurgency units. The operation was directed by Major General FW Loots, then general officer commanding of Special Forces, who personally travelled to Rhodesia in the last days of the Smith regime to screen potential recruits.

178 In all, it is estimated that about 5 000 Rhodesian military personnel were recruited into the SADF in this period. Apart from skilled counter-insurgency specialists, other security personnel who joined this southern exodus at independence or soon afterwards included some Special Branch police officers and intelligence personnel from the Central Intelligence Organisation (CIO). Amongst these was Mr Gray Branfield, who was assigned to Daisy farm adjacent to Vlakplaas, to run a Zimbabwe Special Operations Unit. Branfield ran a string of agents inside Zimbabwe, the most important of whom were Mr Christopher 'Kit' Bawden, his cousin Mr Barry Bawden, and Mr Michael Smith.

179 Other security and intelligence personnel who moved south and were integrated into MI were Mr Pat Keyser, Mr Eric May, Mr Bob Wishart, Mr Peter Stanton and former Selous Scout Peter Grant. They were integrated either into Special Forces, DST, which ran the surrogate forces, or the DCC. Stanton later became a member of the CCB.

180 Their departure notwithstanding, a fifth column of South African agents remained intact inside Zimbabwe, strategically located within the military, the police and the CIO. Possibly the most sensitive of these was CIO operative Geoffrey Burton Price, retained by President Mugabe as his head of close security after independence. Others who have been named as agents working from inside in the immediate post-independence period are CIO members Colin Evans and Philip Hartlebury, and security police officials Alan Trowsdale, Alec West and the CIO head in Bulawayo, Matthew 'Matt' Calloway. Another CIO member who admits to having assisted some of these operatives was Mr Kevin Woods.

181 With the above infrastructure in place and large numbers of ex-Rhodesian soldiers in camps in the northern Transvaal, the SADF was well placed to launch *Operation Drama* – a militarily-driven project aimed at destabilising the new independent government of Zimbabwe. Its objective was, *inter alia*, to ensure that the government did not provide concrete support to the ANC and PAC in their armed struggles. To this end, it recruited and trained Zimbabweans, primarily for sabotage operations designed to destroy infrastructure, damage the economy and undermine the military capacity of Zimbabwe's armed forces.

182 In a statement to the Commission, Lieutenant Kenneth Gwenzi, who joined the Rhodesian army in 1978, tells how he was recruited into the SADF by members of MI soon after independence. He claims that he and a group of black former Rhodesian soldiers worked under four white former Rhodesian military officers from a camp in Venda. Their brief was to follow ANC cadres leaving South Africa as well as to conduct sabotage operations inside Zimbabwe and Mozambique. Railway lines were the primary targets.

*In 1981, four former Rhodesians were killed forty miles inside Matabeleland in a contact with the Zimbabwean army. They were Sergeants Robert Trevor Beech, Peter David Berry, and John Andrew Wessels and a black serviceman known to the Commission only as 'Private Khiwa'. (While the SADF acknowledged the death of the three whites, it has never admitted to the death of Khiwa.)*

*In the 1970s, prior to Zimbabwe's independence, both Beech and Wessels had been members of the Rhodesian Light Infantry while Berry had served in the Special Air Service (SAS). Berry joined the SADF at Messina in March 1980, two weeks prior to Zimbabwe's independence. Beech and Wessels joined in 1980 when they moved to South Africa after Zimbabwe's independence.*

*At the time of their deaths, the four were in a party of eighteen SADF members ambushed by the Zimbabwean army. ‘Private Khiwa’, as well as those who survived the attack and made their way back to South Africa, were black former members of the Rhodesian armed forces based in Venda. At the time, Rhodesian-based diplomats and journalists speculated that the group was on a sabotage mission close to the Mozambique border. This would have been consistent with the objectives of Operation Drama. However, the Chief of the SADF, General Constand Viljoen, denied this and claimed that the group was on an unauthorised mission to rescue political detainees held in a camp in Matabeleland.*

*Ms Mary Beech – the mother of Robert Beech – appeared before the Commission in 1996. In her written submission, she stated that “we as a family find the circumstances surrounding Robert’s death strange. We do not believe that he was on a private mission”.*

- 183 The SADF personnel files of the three white victims reveal that false death certificates were supplied to the victims’ families. The official documentation in those files states that the deaths occurred in the “*operasionele gebied*” (operational area) as a result of “*kontak met die vyand*” (contact with the enemy). The certificates issued to the families stated, however, that they died from “multiple injuries” in “Pretoria”.
- 184 A reading of the files reveals that the three whites were all active members of Special Forces. Given their short tenure in the SADF, they had considerable experience of SADF special and clandestine operations. There is nothing in these records to suggest that these three soldiers were in any way rogue operators engaged in an unauthorised mission.
- 185 In an interview with journalist Ms Peta Thorneycroft in July 1998, Colonel Jannie Breytenbach – at that time attached to DST, which controlled *Operation Drama* – confirmed the existence of *Drama* and that this mission was authorised by a Major Darrel Watt, one of the white officers based in the Venda camp. However, he added that Watt’s action was *ultra vires*, so to speak, in that he had no authority to send troops across the border without approval from his superiors. After the mission, Watt was disciplined and left the army soon thereafter. However, the fact that Watt acted improperly does not alter the fact that members of this mission were acting under orders from their superior officer and believed that they were on an authorised mission.

186 It would seem that the SADF recognised this fact, as it paid compensation in terms of the Workmen's Compensation Act to the widow of John Wessels; the significance of this is that only those killed or injured in the line of duty are eligible for such payments. In addition, after the incident, Ms Beech received the *Pro Patria* medal through the mail, awarded posthumously to her son. The accompanying letter from the chief of the army wrote that it was for "the part he played in the defence of our country against the onslaught of terrorism". It seems improbable that anyone killed in an unauthorised mission which caused considerable embarrassment to the SADF and the government would have received such a decoration.

THE COMMISSION FINDS THAT THE SADF'S PUBLIC DESCRIPTION OF THE MISSION AS UNAUTHORISED WAS MISLEADING AND NOT A FULL AND PROPER DESCRIPTION. IT WAS UNFAIR TO THOSE WHO PARTICIPATED IN IT AND INSENSITIVE PARTICULARLY TO THE FAMILIES OF THOSE WHO DIED IN IT.

THE COMMISSION RECOMMENDS, THEREFORE, THAT THE SANDF ISSUE AN OFFICIAL ACKNOWLEDGEMENT THAT ALL THOSE WHO PARTICIPATED IN THIS OPERATION DID SO IN THE BELIEF THAT THEY WERE ACTING IN TERMS OF PROPERLY AUTHORISED COMMANDS AND THAT THOSE WHO DIED DID SO IN WHAT THEY BELIEVED TO BE THEIR LINE OF DUTY. SUCH A STATEMENT SHOULD BE MADE PUBLIC AND PLACED IN THE PERSONNEL FILES OF ALL THE PARTICIPANTS.

IT IS ALSO RECOMMENDED THAT CORRECT DEATH CERTIFICATES BE ISSUED TO THE NEXT OF KIN OF THE DECEASED AND PLACED IN THEIR PERSONNEL FILES.

187 The Commission was informed by the SADF 'nodal' (liaison) point that all the files on surrogate operations were destroyed by DST when it was closed in the early 1990s. The military archives held only one file on *Drama* [HSOPS/309/4/DRAMA] containing only a letter dated 25 February 1983 from the then chief of staff intelligence, Lieutenant General PW van der Westhuizen, to the chief of the SADF. It was a query from the Department of Foreign Affairs about the whereabouts of some Zimbabweans said to have entered South Africa after April 1980. His reply provides some corroborative evidence on *Drama's modus operandi*. It states that sixteen ZIPRA members were infiltrated back into Zimbabwe on 20 February 1983 and that eighteen married members were to be sent to the SADF base Duku-Duku (in northern Zululand) at the end of February 1983, while the unmarried members would be relocated to 32 Battalion in the Caprivi.

188 After the debacle of the 1981 ambush, *Drama* seems mainly to have taken the form of arming, training and infiltrating Zimbabweans for operations primarily in Matabeleland.

## ■ POLICE AND MILITARY COUNTER-INSURGENCY OPERATIONS IN MOZAMBIQUE AND ANGOLA: OPERATIONS ALTER/MILA AND SILWER/DISA

189 Details of the SADF's military strategies in Angola and Mozambique were discussed above. These surrogate operations were launched in implementation of these strategies, although it must be recalled that *Silwer* formed only a part of the overall strategy for Angola.

190 In summary, the goal in respect of both Mozambique and Angola was the establishment of sympathetic, or at the very least, neutral governments which would ultimately form part of a Southern African community of nations. However, the possible overthrow of the Angolan government was not discounted.

191 Few specific details are available on *Silwer* and *Mila*, due to the paucity of the archival holdings on these operations. Most of what is known by the Commission on the RENAMO project was supplied by Mr Roland Hunter who, in the early 1980s, was in the SADF, attached to DST as an aide to van Niekerk. He was at the same time supplying information to the ANC, for which he was ultimately arrested and gaoled. The information he gave to the Commission is included in the discussion on DST elsewhere in this volume. It contains details on the staffing and funding of DST head office, the operating heads of the different projects and of the training and other camps of RENAMO in the Transvaal.

192 South Africa took over responsibility for RENAMO in March 1980 and the redeployment of RENAMO forces occurred in March and April of that year. They were dispersed over three main bases in the Northern Transvaal, with operational headquarters at Sawong near Phalaborwa. The leader of RENAMO, Mr Alphonso Dlakama, and six senior officers and their families were placed on Vofal, a farm north of Pretoria. The then secretary general of RENAMO, Mr Orlando Christina, who also lived near Pretoria, worked in the DST secretariat in Pretoria and, like Dlakama, was on the SADF payroll.

193 Training took place at these bases and at Camp Hippo in the Caprivi. However, the largest element of the assistance comprised material, weaponry, uniforms, clothing, food and agricultural implements. This was supplied not only to the local camps, but in monthly drops by the SAAF into RENAMO-held territory inside Mozambique.

194 There was also some deployment of Special Forces troops inside Mozambique. In 1981, Captain Alan Gingles, a former member of the British SAS and Rhodesian military then attached to 5 Recce, was killed in a sabotage mission near Beira. He was attempting to blow up a railway line when the device exploded prematurely.

195 In the military archives file on Mila [HSOPS/309/4], there are entries which also confirm the use of Special Forces' troops inside Mozambique. 'Special Op' instruction 10/83 (11 March 1983) states that "a small team presently deployed in the Inhambane province on *Operation Bristol* is to be extracted prior to this exercise" (the monthly drop). A month later on 8 April 1983, 'Special Op' instruction 12/83 reads "there are at present no Special Forces teams deployed with the RNM [RENAMO] ... monthly resupply to be provided to RNM in line with approved objectives". On 25 May 1983, a drop involving four C130 planes included five RNM leaders who were parachuted in, along with sixty palettes containing, *inter alia*, 450 AK-47s, six RPG rocket launchers, 894 888 rounds of bullets of one kind and 40 000 of another, 800 hand grenades, 600 40mm RPG-7s and 180 anti-personnel rockets, along with such provisions as 200 kilograms of soap, forty kilograms of tobacco, 1 656 torch batteries, 240 kilograms of salt, 175 kilograms of sugar, 420 litres of diesel fuel and so on.

196 The file indicates that drops on this scale continued monthly throughout 1983. No file is available for 1984, the year in which the Nkomati Accord was signed and when all aid to RENAMO was supposed to cease. In fact, support for RENAMO never ceased; it simply changed its form. As Craig Williamson told the Commission, what had been an official project became a covert one. Evidence before the Commission shows that a two-year stockpile of weaponry was delivered to RENAMO in the two months preceding the signing of the Accord. The Gorongosa diaries found in 1985 also provided firm evidence of continuing SADF involvement with RENAMO in violation of the Accord, including secret visits to the organisation's headquarters by at least one cabinet minister, the Deputy Minister of Foreign Affairs. In evidence to the Commission, Pik Botha confirmed the authenticity of the diaries and that they had been a major embarrassment to the government. He was unable to offer a convincing explanation for his deputy's visits, but claimed to have had no foreknowledge of them.

197 It appears that both the cabinet and the SSC, including even State President PW Botha, were kept in ignorance of ongoing involvement with RENAMO. Then chief of the SADF, General Viljoen, may have authorised the continuing assistance to RENAMO.

198 In the case of aid to UNITA, files from the military archives reveal frequent joint planning meetings between SADF and UNITA military officials. On 2 December 1981, a plan was agreed for a joint operation in Cunene province in order to "help UNITA regain control of its traditional area of strength in north-east Cunene". Silwer's goals for 1982 are detailed as "protection of Cunene province, extension of UNITA influence in Cunene and Moxico provinces ... elimination of SWAPO as a realistic threat to South West Africa".

199 The file for 1982 (the only one made available) contains numerous references to supply drops such as those in Mozambique, as well as to several limited military operations to enable UNITA to move into new areas. It is clear that the level of SADF military involvement with UNITA on the ground was far greater than in Mozambique. The presence of MK camps in the country was certainly not an insignificant determining factor in that regard. The list of ANC members killed in exile reveals that considerably more MK combatants were killed in what are termed "UNITA ambushes" than by the SADF in combat. This was, indeed, the single largest cause of unnatural deaths amongst ANC members in exile.

## ■ POLICE AND MILITARY COUNTER-INSURGENCY OPERATIONS IN LESOTHO: *OPERATION LATSA*

200 The Lesotho Liberation Army (LLA) – the object of the SADF's support in terms of *Operation Latsa* – had its origins in events in Lesotho in the 1970s. In 1970, the then pro-South African Basotho National Party (BNP) refused to accept the results of the country's first post-independence general election, which it lost. With covert South African government support, it held on to power and declared a state of emergency. In 1974, the Basutholand Congress Party (BCP) – the 1970 election winner – attempted an armed seizure of power, which failed. Hundreds of BCP supporters, including its leader Mr Ntsu Mokhehle, fled the country. Initially they found refuge in Botswana and Zambia.

201 In the course of the 1970s, the BNP's stance towards the South African government and the ANC changed radically and large numbers of ANC members and MK combatants found sanctuary in the country. The BNP's foreign policy shifted as well, to the point that the Soviet Union opened an embassy in Maseru in the 1970s, a move that antagonised the South African government. By the mid-1970s, as far as the South African government was concerned, Lesotho had moved into the camp of the ANC.

202 In this context, the South African government and the BCP found common ground in their hostility to the BNP government. By this time, the BCP had developed an armed wing, the LLA, whose major logistical problem was getting its guerrillas through South Africa into Lesotho. Its initial attempts to infiltrate guerrillas into Lesotho in 1978 were disastrous. The first two sets of infiltrators were all captured by the SAP, as was the entire LLA High Command, with the exception of its leader Ntsu Mokhehle, *en route* to a meeting in Welkom. By 1979, however, the LLA had managed to establish a clandestine presence in the Transkei from where it launched operations inside Lesotho in August 1979.

203 The Basotho government responded with a major crackdown on the BCP, and by January 1980 over 700 BCP supporters had fled to the Orange Free State. By this time, Mokhehle was in touch with the South African government. By mid-1980, the LLA was receiving weapons and training from the SADF. The LLA was now able to move the bulk of its fighters from the Transkei to Dithotaheng camp in QwaQwa and another camp on a farm called Ferndale, near Bergville in Natal, where the Special Tasks personnel assigned to the LLA project were also based. These were at various times Special Forces members Colonel Hennie Blaauw, Major GC (Dan) Griesel (who was base commander at Ferndale for a period), Captain C 'Pine' Pienaar, Lieutenant Erasmus Steyl (aka Trevor), Colonel MA van den Bergh and Major Johan Opperman.

204 Although officially heading the BCP in exile in Botswana, Mokhehle seems to have spent a good deal of time in South Africa in the early 1980s. He is known to have stayed at Port St Johns in the Transkei in about 1983, where he developed close ties with the former Rhodesian military officers then running the Transkei Defence Force. At other times, he is known to have been given accommodation at the secret SAP farms Vlakplaas and Kochfontein. This latter was near Zeerust and was frequently used by the SADF's Special Forces as a base for attacks into Botswana.

205 Operations inside Lesotho focused primarily on the sabotaging of infrastructural facilities and the killing of BNP supporters and officials. There is little evidence of LLA operations against ANC/MK targets, with the exception of an attack in February 1981 on the home of a South African refugee, Mr Khelaki Sello, a prominent lawyer who often defended ANC members. He survived the attack.

206 The LLA was used by the South African government primarily as an instrument for applying pressure to the BNP government – pressure which was relaxed when the BNP was negotiating or talking with South Africa and intensified when it was

not. It was most active in the 1981–83 period, during which the LLA undertook at least thirty-four operations against targets inside Lesotho, including a number of assassinations of politicians and one pro-government newspaper editor. It was not, however, the LLA which toppled the Basotho government in January 1986, but the Lesotho military with covert assistance from the SADF. With the overthrow of Chief Jonathan's government in 1986 – the fulfilment of the decision adopted at the 1983 special SSC meeting in the operational area – LLA operations inside Lesotho ceased. Many members returned home and some were integrated into the national army. There is evidence that some of those who did not return home became involved in hit squad operations in the Transkei in the late 1980s.

## ■ POLICE AND MILITARY CROSS-BORDER OPERATIONS

### Assassinations, ambushes and abductions

*Not even South Africa's borders stopped them ... Nobody had been safe anywhere in the world. (Former Vlakplaas Commander Eugene de Kock's trial evidence in mitigation, 8 October 1996.)*

207 The cases examined below do not reflect all the incidents known to the Commission. Moreover, the cases dealt with here were not all directly referred to the Commission; some are cases about which the Commission acquired information in the course of its work. The attempt to kill Mr Bafana Duma is included because it represents the first case known to the Commission of an attempted assassination of an ANC chief representative.

208 In their forays into foreign territories, the SADF and the security police did not operate alone. Aiding and abetting them was a formidable intelligence and operational infrastructure. This was comprised of five main elements:

- a Sympathetic governments like those of Swaziland and Malawi, as well as Lesotho after the military coup of 1986, when a joint security task force (*veiligheidswerkgroep*) was set up with representatives of the SAP security police and MI, and the Basotho Police and Defence Force. A similar level of co-operation existed with Swazi security.

In his testimony to the Commission, Colonel Christo Nel, the one-time head of the DCC's target-development section, stated that from 1986/7 MI had "a

permanent presence in Swaziland and we had a permanent interrogation centre outside Mbabane ... captured or arrested MK soldiers were taken there by the Swazis and we were given the opportunity to interrogate them".<sup>15</sup>

- b Sympathetic security officials of governments less inclined to co-operation than those above. A prominent example here is the one-time commissioner of police in Botswana, Mr Simon Hirshfeldt, who, though not an agent, is said to have worked closely with the security police in Zeerust.
- c Sympathisers amongst the residents of neighbouring states who were prepared to share information with and otherwise assist South African security. This applied, for example, to some white expatriates. A number of amnesty applicants from the South African security police have talked of help in the form of free accommodation at hotels and free meals at restaurants. They have told, too, of farmers whose properties abutted South African territory and who allowed security operatives through their fences. In an amnesty hearing, an eastern Cape security policeman, Colonel Barend du Plessis [AM4384/96] testified how their work in relation to Lesotho was facilitated by an informer network in the Maseru office of the United Nations High Commission for Refugees (UNHCR). Further, there were police members in the BLS states who worked with South African security operatives for payment.

The extent of the above support should not be generalised. Firstly, a significant minority of whites aided the liberation movements. Similarly, while many Swazi, Basotho and Batswana citizens aided South African security, many citizens of those countries helped members of the liberation movements, often at considerable personal cost.

- d Agents and informers operating from within the ranks of the liberation movements. The vast majority of these were coerced in some way into 'turning'. Others were deployed to penetrate the liberation movements from outside.
- e Professional spies operating under cover in the region and internationally. Craig Williamson, Section G deputy head in the early to mid-1980s, ran an extensive African and international spy network. Its African base was in Malawi and was headed by amnesty applicant Captain 'Vic' McPherson [AM7040/97]. Its focus was Zambia and Tanzania.

Amongst the amnesty applicants for the London ANC bombing are two operatives

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<sup>15</sup> Transcript, section 29 hearing, 15 April 1998, p. 85.

who at various times ran Williamson's European operation out of Brussels and London respectively. Recruited into that network were South African students studying abroad, a ranking Dutch police officer, some European journalists and a journalist working for the BBC World Service. Not only was the head of the Spanish anti-apartheid movement in the 1980s an apartheid agent, but the organisation was set up at Williamson's suggestion and funded by his section. As head of a European anti-apartheid national group, the Spanish head became part of the broader European anti-apartheid family, thereby allowing for the penetration of South African intelligence.

Zimbabwe was also extensively penetrated by both NIS agents and double agents operating from within Zimbabwe's security service. In a particularly notable case, South African MI infiltrated a DCC operative, Mr Nigel Barnett (aka Henry William Bacon, Nicho Esslin and HW Otto) into Mozambique in 1983. He was still operating there under cover fourteen years later. Other networks were developed in Zambia and South West Africa by DCC operative Geoffrey Burton Price.

- 209 Despite this array of intelligence resources, a striking feature of the cases presented below is the high number of instances in which the victim or target of the violation turned out to have been the wrong one. The Bheki Mlangeni case is perhaps the best known.
- 210 Before moving to the individual cases, it should finally be noted that findings are not made on those cases where there were amnesty applications or decisions pending at the time of reporting, or where there was no corroborated evidence to support a finding.

## **Assassinations and attempted assassinations**

### **1960–1973**

- 211 The Commission has no corroborated evidence of any external assassinations during the 1960 to 1973 period for which South African security operatives can be said to have been responsible.

### **1974–1979**

- 212 The first known cross-border assassinations in the 1974–79 period occurred in

February 1974, when, within two weeks of each other, MK founder member John Dube (aka 'Boy' Mvemve) and former SASO founder member Abraham Onkgopotse Tiro were killed by letter bombs in Zambia and Botswana respectively.

213 The Commission received no amnesty applications for these two killings. Former BOSS agent, Mr Gordon Winter, alleges<sup>16</sup> that the killings were the work of BOSS's recently formed covert unit, the Z-squad. At a Commission briefing, a former BOSS and later senior NIS and NIA member confirmed the existence of the Z-squad and named amongst its small band of original members Mr Phil Freeman, an explosives expert, and Mr Dries Verwey.

214 Another former BOSS agent, Mr Martin Dolincheck, also confirmed Z's existence. In an interview published in the *New Nation* (9 August 1991), he named Kuhn and Verwey as "among those responsible for his [Tiro's] death". In an interview with the Commission, Dolincheck stated that Tiro was killed by the insertion of an explosive device into a package addressed to him from the Geneva-based International University Exchange Fund (IUEF). At that time, all mail destined for Southern Africa (including the BLS states, Zimbabwe, Zambia, Mozambique and the Seychelles) passed through the airmail sorting office in Germiston near the then Jan Smuts airport. The actual running of that office was contracted out by the Post Office and, according to Dolincheck, South African Airways (then a state corporation) deliberately bid low to gain the contract so that the security police could have easy access to the millions of pieces of mail, including diplomatic traffic, that flowed through it annually.

215 According to Dolincheck, in the 1970s and 1980s some 400 police, mostly retired officers, worked in the facility, amongst them Security Branch officers. Dolincheck claims that Tiro's package from the IUEF was "doctored" at this facility. That particular item of mail would have been a strategic choice as the IUEF, an international anti-apartheid non-governmental organisation (NGO), worked closely with SASO and was channelling funds to the organisation. Tiro was in regular contact with the IUEF and a package would not have aroused suspicion.

216 In the case of the Mvemve letter bomb, it seems the postal service was not used as, according to Winter, the parcel bomb was posted in Lusaka. It must then have been prepared in South Africa and carried to Lusaka. This is similar to the method used in the letter/parcel bomb killings of Ms Ruth First and Ms Jeanette and Kathryn Schoon (see below).

<sup>16</sup> In his book, *Inside BOSS*.

**WHILE THE COMMISSION IS UNABLE TO MAKE A CONCLUSIVE FINDING IN RESPECT OF THE MURDERS OF MR ONKGOPOTSE TIRO AND MR JOHN DUBE, THE PROBABILITY BASED ON THE EVIDENCE AVAILABLE TO IT IS THAT THEY WERE THE WORK OF BOSS'S Z-SQUAD.**

217 According to information contained in Captain Dirk Coetzee's 1989 confession on hit squad activities and in his amnesty application [AM0063/96], in January 1977, an attempt was made to kill the ANC's chief representative in Swaziland, Mr Bafana Duma. The method involved attaching an explosive device to the inside of the post office box of Duma's employer in Manzini. As a messenger, Duma's tasks including collecting the post. Duma lost an arm but survived.

218 According to Coetzee, this operation was undertaken by the Ermelo security police with the aid of the security police's technical division, where the device was prepared by then Lieutenant (later Lieutenant Colonel) WAL du Toit. Major Nic van Rensburg was in charge of the operation, assisted by Colonel Christo Deetlefs and Sergeant Chris Rorich.

**THE COMMISSION FINDS THAT THE ATTEMPT TO KILL MR BAFANA DUMA WAS AUTHORISED BY MAJOR NIC VAN RENSBURG OF THE ERMELO SECURITY POLICE AND UNDERTAKEN BY THOSE OF ITS MEMBERS NAMED ABOVE, WITH THE ASSISTANCE OF LIEUTENANT WAL DU TOIT OF THE TECHNICAL DIVISION OF THE SECURITY POLICE.**

219 On 28 February 1978, MK member Kehla Nkutha was abducted from Swaziland. He died soon after his forcible return to South Africa.

220 Undercover intelligence operatives from the Pietermaritzburg division of the Security Branch had identified Nkutha as a regular traveller between Maputo and Mbabane for the purposes of transporting MK members.

221 Late in 1977, members of the Pietermaritzburg and Eastern Transvaal divisions of the security police mounted a joint operation to ambush the vehicle in which Nkutha was travelling and to abduct him. A first attempt failed when the vehicle did a U-turn and avoided the ambush. A second attempt some weeks later succeeded. There was a shoot-out, and the elderly passenger, Mr John Majola, and two of the operatives, Eugene 'Jerry' Fourie and Sergeant André 'Basie' Erwee, were seriously wounded. They survived, and Majola managed to escape from his attackers. Nkutha was also wounded, captured and taken across the border, where he died or was killed. The circumstances of his death are not clear.

222 On both occasions, the ambush group used the facilities of a farm just inside the Swazi border owned by a South African named by Dirk Coetze as an agent. The farm also had a helicopter pad for use by South African security forces.

223 The operation was jointly commanded by Colonel (later Brigadier) Hans Dreyer and Colonel Johannes van der Hoven of the Pietermaritzburg and Eastern Transvaal security police divisions respectively. Other participants included Security Branch operatives from the Eastern Transvaal and Pietermaritzburg, such as Major Nic van Rensburg and Sakkie van Zyl. The Commission received an amnesty application from a Pietermaritzburg security policeman, Warrant Officer Don Gold [AM3683/96], for his participation in the first ambush. He did not participate in the second operation.

224 This raid occurred two years before the SSC adopted regulations authorising cross-border incursions and it is not known what authorisation procedures were followed in this case.

**THE COMMISSION FINDS THAT MR KEHLA NKUTHA WAS ABDUCTED FROM SWAZILAND IN AN OPERATION CONDUCTED BY MEMBERS OF THE PIETERMARITZBURG AND EASTERN TRANSVAAL DIVISIONS OF THE SOUTH AFRICAN SECURITY BRANCH. HE DIED THEREAFTER IN SOUTH AFRICA.**

225 On 6 July 1979, six ANC members in exile in Lesotho were injured in a parcel bomb attack in Maseru. One of them, Father John Osmers, had his hand and part of his groin blown away by the bomb which was concealed in a package containing copies of the ANC journal, *Sechaba*. The other victims were a former SASO organiser, Mr Silumko Sokupa, Ms Phyllis Naidoo, Mr Mbuyisela Madaka, Mr Siphiwe Sithole and Mr Wandile Kallipa. No amnesty applications were received for this incident and no information on it was uncovered.

**OWING TO A LACK OF CORROBORATED EVIDENCE, THE COMMISSION IS UNABLE TO MAKE A FINDING ON THE PARCEL BOMB ATTACK ON FATHER JOHN OSMERS, MR SILUMKO SOKUPA, MS PHYLLIS NAIDOO, MR MBUYISELA MADAKA, MR SIPHIWE SITHOLE AND MR WANDILE KALLIPA.**

## **1980–1985**

226 During the 1980–85 period, MK member Patrick Makau and a seven-year-old child, Patrick Nkosi, son of an active ANC member, Mr Mawick Nkosi, were killed in bomb attacks on two houses in Manzini, Swaziland, both on 4 June 1980. These attacks were undertaken by Eastern Transvaal security police in retaliation for the ANC's sabotage of the Sasol oil refinery at Secunda a few days earlier.

227 The mission was ordered by Colonel (later General) JJ Viktor, then C section head, who instructed Dirk Coetze to consult with the head of the Ermelo Security Branch with a view to organising a retaliatory operation. Involved in the actual operation were Warrant Officer Paul van Dyk, Sergeant Wynand Hattingh, Sergeant Chris Rorich and Coetze, all of whom submitted amnesty applications. Viktor also applied for amnesty. The head of the Ermelo security police did not.

228 The two houses targeted were thought to be ANC transit facilities and it was believed that the Sasol squad had stayed in one of them. The bombs exploded within a minute of each other, causing extensive damage. In addition to the two killed, three other persons were hurt. One of these was a Swazi, Ms Eunice Dlamini, one of whose hands was mutilated and her hearing badly impaired. After several months of hospitalisation, she committed suicide by locking herself in her home, dousing herself with petrol and setting herself on fire.

229 Vlakplaas Commander Dirk Coetze [AM0063/96], Corporal Almond Nofemela [AM0064/96] and Constable David Tshikilange [AM0065/96] applied for amnesty for the abduction and murder of a Basotho citizen, Mr George Nkali, on 17 February 1981. It is not clear that there was a political motivation for this killing. Nkali was a diamond dealer with whom the applicants, as well as police agents Mr Ernest Ramatlala and Sergeant Joe Mamasela, had dealings. He was lured across the border and killed by *askaris* after he had apparently sold the South Africans a worthless consignment of diamonds and refused to refund their monies. His body was dumped on the Swazi border.

THOUGH THE AMNESTY HEARING ON THIS INCIDENT HAD BEEN HEARD AT THE TIME OF REPORTING, NO DECISION HAD YET BEEN MADE PUBLIC. THE COMMISSION'S FINDING AWAITS THE RULING OF THE AMNESTY COMMITTEE.

230 In mid-1981, Dirk Coetze was requested by the head of the Ladybrand Security Branch to kill a senior MK member in Lesotho, Mr Lehlonohono Christopher Moloi. He arranged for *askari* Almond Nofemela and a member of the Ladybrand Security Branch, Sergeant Michael Jantjies, to undertake the mission. The plan involved shooting Moloi as he opened his front door and then throwing a grenade into the house. The plan failed, in part because Moloi failed to answer knocks on his front door. Instead, shots were fired at Moloi through a window, but missed him. All those named applied for amnesty for this attempted killing.

231 On 31 July 1981, Mr Joe Gqabi [JB00502/01GTSOW], the ANC's chief representative in Zimbabwe as well as its chief of intelligence and an NEC member, was

shot dead in the driveway of his home in Harare. Six months earlier, on 24 February 1981, Gqabi had survived a car bombing attempt on his life.

- 232 Both Gqabi's widow and his close comrade, Mr Shadrack Ganda [JB/00781/01GTSOW], made submissions to the Commission on the murder. The Commission's investigation of the case was hampered by the fact that it did not conduct enquiries in Zimbabwe. Although the ANC was asked to provide the Commission with the statement it received from Ms Geraldine Fraser-Moleketi, who was resident in Mr Gqabi's house at the time of his death, the request met with no response.
- 233 The evidence available suggests that Mr Gqabi was killed by a South African hit squad acting on the basis of intelligence supplied by agents of South African MI operating from inside Zimbabwe's CIO. Sometime after the murder, Mr Colin Evans and Mr Philip Hartlebury, two of these alleged agents, were arrested and charged with spying for South Africa.
- 234 Under interrogation, Evans and Hartlebury admitted to spying for South Africa and to supplying intelligence on Joe Gqabi to a contact code-named 'Erasmus', whom the Commission knows to be a long-serving South African Special Forces operative. In their espionage trial, Evans' and Hartlebury's confessions were deemed to be inadmissible owing to the torture to which they had been subjected and they were acquitted. Prior to that, South Africa had admitted that they were agents and had offered to exchange them for a Russian and several Angolan prisoners. After their release from prison, both moved to South Africa.
- 235 The ANC has reports of two alleged agents who confessed to participating in the actual killing of Mr Gqabi. One, Mr Ivan Davids, wrote in his statement: "... when he opened the door, I ran towards him; when he looked up I was already next to him and the trigger already pulled. I kept on pulling the trigger until my magazine was empty. Piet came up and fired a few shots on him". The Commission was unable to follow up this statement as Mr Davids was executed by the ANC in Angola in 1984. However, Mr Ganda, who lived in Mr Gqabi's house and who discovered the body, provides details in his statement to the Commission consistent with the above description.

**ON THE BASIS OF THE EVIDENCE AVAILABLE TO IT, THE COMMISSION FINDS THAT MR JOE GQABI WAS ASSASSINATED BY SOUTH AFRICAN AGENTS OPERATING IN COLLUSION WITH A GROUP OF ZIMBABWEAN AGENTS.**

236 By the late 1970s, South African security had identified Mr Chris Hani as the most important MK operative in the immediate region. A former high-ranking MI officer told the Commission that he had attended at least one meeting of senior SADF generals where a senior MI officer presented a plan for Hani's killing. The meeting was chaired by General Viljoen. The plan was vetoed as the safety of Hani's family could not be guaranteed.

237 Clearly, other plans were approved as, in the early 1980s, a number of attempts were made by the security police and the SADF to kill Hani in Lesotho. In addition to the major SADF incursion of December 1982, at least two other attempts were made on his life. The first was in early 1980, when his house was bombed. Later in August of the same year, Mr Ernest Ramatlala, a police informer who had been given training in the handling of explosives by the SAP, attempted to attach a bomb to Hani's car which was parked in the driveway of his house. The bomb exploded prematurely and Ramatlala was seriously hurt. Ramatlala was granted bail but fled back to South Africa where he was given sanctuary at Vlakplaas. He later joined the SAP.

238 Two years later, on 2 August 1982, Hani's home was damaged in a bomb blast. Hani was absent but one person was hurt in the attack. This incident coincided with another attack on the house of a South African exile where a Mr T Banzi was seriously injured. No amnesty applications were received for these operations.

**THE COMMISSION FINDS THAT MR CHRIS HANI WAS TARGETED FOR ELIMINATION BY SOUTH AFRICAN SECURITY FORCES AND THAT THEY WERE RESPONSIBLE FOR SEVERAL ATTEMPTS TO KILL HIM IN LESOTHO IN THE EARLY 1980S.**

239 On 26 November 1981, Dirk Coetzee led a team in an attack on a house in Gaborone, Botswana occupied by two ANC activists, Ms Joyce Dipale and Mr Tieho Masinga (aka Rola). The house was believed by the security police to be an ANC transit house. In his original hit squad confession document, Coetzee states that he was ordered to kill the occupants by the head of C section and to link up with the heads of the Zeerust and West Rand Security Branches. The base from which the attack was launched was an abandoned farm house close to the Kopfontein border post.

240 Amnesty applicants Almond Nofemela and Mr David Tshikilange as well as Vlakplaas members Captain Paul van Dyk and Mr Joe Mamasela were the operatives who performed the mission; others at the farm briefed the team on details such as the layout of the house.

241 From the police perspective, the operation was not a success in that Masinga (Rola) was out of the country on the night of the attack, while both the occupants of the house, Joyce Dipale and Lilian Keagle, a Batswana colleague, survived despite being badly wounded.

**THOUGH THE AMNESTY APPLICATION IN RESPECT OF THIS INCIDENT HAS BEEN HEARD, NO DECISION HAD BEEN ANNOUNCED AT THE TIME OF REPORTING. THE COMMISSION'S FINDING ON THIS ATTACK AWAITS THAT DECISION.**

242 On 4 June 1982, acting ANC chief representative in Swaziland, Mr Petros Nyawose (aka Nzima) and his wife, SACTU<sup>17</sup> representative Ms Jabulile Nyawose, were killed in a car bomb explosion outside their flat in Matsapha near Manzini, Swaziland. Two passengers in the car, Mr Thokozane Mkhize and Mr Siphiwe Mngomezulu, were seriously injured. The explosion and murder of their parents was witnessed by the Nyawose's three children. One of them, Nonzamo Nyawose, submitted a statement to the Commission [KZN/NNN/011/DN] and appeared at a public hearing.

243 Intelligence-gathering and surveillance for the assassination was done by Dirk Coetzee [AM0063/96], Almond Nofemela and David Tshikilange [AM0065/96] for which they have applied for amnesty. According to a statement to the Commission by Eugene de Kock, and further oral evidence at a Commission amnesty hearing, the murder of the couple was authorised by Brigadier Willem Schoon, then head of C section. The operation was performed by the then commander of Vlakplaas, Captain Jan Coetzee, assisted by Colonel Paul Hattingh of the SAP Explosives Department and Captain Paul van Dyk of the Ermelo Security Branch. For this operation, the three perpetrators received the SOE medal, a high police decoration.

**THE COMMISSION FINDS THAT THE MURDER OF MR PETROS AND MS JABULILE NYAWOSE WAS SANCTIONED BY THE SOUTH AFRICAN GOVERNMENT, AUTHORISED AT SENIOR MANAGEMENT LEVEL OF THE SECURITY POLICE AND CARRIED OUT BY THE OPERATIVES NAMED ABOVE.**

244 Following the spate of sabotage and other covert operations in Zimbabwe, a CID Inspector Mr Eric Roberts was appointed in late 1982 by the Zimbabwean government to investigate these attacks and South Africa's possible involvement in them. In December 1982, Roberts was shot and killed at his home in Bulawayo when he answered a late-night knock on his front door. No arrests were made for this killing, but South African agents are suspected of having been involved.

**IN THE ABSENCE OF CORROBORATED EVIDENCE, THE COMMISSION IS UNABLE TO MAKE A FINDING ON THIS CASE.**

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245 On 17 August 1982, Ms Ruth First, then Director of the Centre for African Studies at Eduardo Mondlane University in Maputo, was killed in her office by a parcel bomb. On 28 June 1984, ANC official Ms Jeanette Curtis Schoon and her eight-year-old daughter, Kathryn, were killed by a similar device in their home in Lubango, Angola.

246 Craig Williamson [AM 5181/97] applied for amnesty for all three killings. Then a member of the Security Branch's G (foreign intelligence) section, Williamson states in his application that he received instructions from his section head, Captain Piet 'Biko' Goosen, to arrange for the preparation of the bombs and that he assigned the task to Warrant Officer Jerry Raven of the police technical section. Raven's involvement in the manufacturing of the two explosive devices is corroborated by his amnesty application. A third member of the Security Branch, Sergeant Steve Bosch, also applied for amnesty for his role in the preparation of the device.

247 In a separate incident in 1981, according to the amnesty application of Brigadier Schoon, he supplied Dirk Coetze with a revolver and ammunition and instructed him to kill Mr Marius Schoon in Botswana. Coetze apparently passed the weapon on to an operative who, however, failed in the mission.

248 On 22 November 1983, Mr Zwelibanzi 'Zweli' Nyanda, MK commander for Swaziland and head of the ANC's Natal military machinery, and a fellow MK combatant, Mr Keith McFadden, were killed in Manzini, Swaziland. The operation was authorised by the head of the Security Branch and Willem Schoon, [AM4396/96] who applied for amnesty for it. The operation was led by Vlakplaas commander Brigadier Jack Cronjé, while his raiding party included De Kock, Almond Nofemela, Jeff Bosigo, and a number of Eastern Transvaal security police including Sergeant Chris Rorich, Captain Paul van Dyk, and Warrant Officer 'Freek' Pienaar.

249 A third person in the house was the second-in-command of the MK's Natal machinery, Mr Edward Lawrence (aka 'Fear', Ralph McGina and Cyril Raymonds). He escaped by jumping out of a window. It later turned out that this was by pre-arrangement as he had, for ten years, been a Security Branch agent or source. 'Fear' supplied the information on Zweli's house and gave the attackers a signal when the occupants were asleep. Nyanda was shot by De Kock and McFadden by Cronje. Those involved in this operation received the Police Star for Outstanding Service (SOE medal) from the then Minister of Police, Louis le Grange.

250 Ms EC Majola informed the Commission of the death in exile of her brother Mr Eulogius Trusty Ndlovu (aka George Matlala) [KZN/FS/373/DN]. Ndlovu joined the ANC in 1976 and left the country. The last communication the family had with him was a letter in 1983 in which he stated that he was in Mozambique.

251 The Commission has been able to establish that, in December 1977, Ndlovu went from Swaziland to Zambia for military training with ZAPU. In late 1978, he obtained a scholarship to study in Bulgaria for a year. Thereafter, he returned to Angola for further military training. In 1984, he served as secretary to the head of MK's Natal machinery, Mr Thami Zulu.

252 On an unknown date in 1984, Ndlovu died in unclear circumstances in Swaziland. He is listed under the name of Matlala on the list of ANC members killed in exile. The fact of his death is confirmed in a statement to the Commission by an MK intelligence official then in Swaziland. This states that he died in a hand grenade attack.

**THE COMMISSION FINDS THAT MR EULOGIUS TRUSTY NDLOVU WAS KILLED BY UNKNOWN PERSONS IN SWAZILAND ON AN UNKNOWN DATE IN 1984.**

253 In early 1985, the house of a South African exile, Mr Nat Serache, in Gaborone, Botswana was attacked in an assassination attempt. General Albertus Steyn, Brigadiers W Loots [AM4149/96/] and Willem Schoon and Colonel Philip Rudolf Crause [AM4124/96] applied for amnesty for this operation. In his application, Steyn stated that Serache was suspected of facilitating the infiltration of MK guerrillas into South Africa and that he briefed General Kat Liebenberg of Special Forces and a senior SAP officer. Serache was not in his house at the time of the attack. According to Crause, it was destroyed.

254 On 14 May 1985, Mr Rogers Nkadimeng, a senior ANC/SACTU official, was killed in a car bomb explosion in Gaborone, Botswana. This operation was authorised by General Albertus Steyn, then head of the Western Transvaal Security Branch, who applied for amnesty, and carried out by SADF Special Forces personnel. Zeerust Security Branch member, Colonel Philip Rudolf Crause, also applied for amnesty for this operation but gives no details as to his role. According to Krause, the operation had a second target, Mr Jackie Molefe, but it failed in that regard.

255 In May 1985, Mr Japie Maponya [JB0290/03WR], brother of an MK activist, was abducted by a team of Vlakplaas operatives led by Eugene de Kock, taken to Swaziland and killed. De Kock acted under the orders of Colonel Johan le Roux,

head of the Krugersdorp Security Branch, where Maponya had previously been detained. This case is discussed more fully elsewhere in this volume.

256 On 19 December 1985, a seventeen-strong team of Vlakplaas operatives led by Eugene de Kock attacked two houses in Maseru and killed six South Africans and three Basotho citizens. This incident occurred at a time of severely strained relations between the governments of Lesotho and South Africa. The day after the raid, the SSC authorised intensified measures against Lesotho, including the use of force. At the time, a Special Forces team under Captain Sakkie van Zyl was assembled at the QwaQwa Sun hotel for a cross-border raid. According to De Kock, discussions between the two groups resulted in an agreement that the SAP unit, on the basis of its superior on-the-ground intelligence, should undertake the operation.

257 According to a statement given to the Commission by Mr Elvis Macaskill, much of this intelligence was supplied by himself. He was at the time a South African agent resident in Lesotho. Macaskill was instructed by his handlers to organise a Christmas party to which ANC members were invited. The host house was attacked and seven people were killed. They were Mr Vivian Stanley Matthee [CT00431/WIN & CT00692/WIN], Mr Joseph Monwabisi (aka Mayoli), Ms Nomkhosi Mini [EC2098/77PLZ], Mr Mankahelang Mohatle, Mr Morris Seabelo, Ms Midian Zulu and one other Basotho citizen whose name is not known to the Commission. By prior arrangement, Macaskill's sister was not killed. Two of those killed at the party were high-ranking MK members, namely Morris Seabelo, MK commander in Angola, and his chief of staff, Joseph Monwabisi.

258 Those in or at the party house were shot by Warrant Officer Willie Nortjé and Eugene de Kock. MK commander Mr Leon Meyer [EC0117/96ELN] had left the party before the attack with his wife Ms Jacqui Quin [KZN/SELF/1161/DN]. De Kock instructed Macaskill to lead Mr Anton Adamson and one other operative to their home, where both were killed. Their infant daughter, Phoenix, was unharmed.

259 De Kock was instructed to undertake this operation by C section head, Willem Schoon, who in turn indicated that his orders came from "*heelbo*" (the very top). In his amnesty application, General Johan Coetzee [AM4116/96] confirms that the raid was discussed and approved at the level of the SSC.

260 A number of the operatives involved in the raid applied for amnesty for it. They include De Kock and Willie Nortjé [AM3764/96]. Anton Adamson is deceased

and the fourth killer did not apply. Johan Coetze and Willem Schoon applied for this operation, but others in the chain of command did not.

## **1986-1989**

261 On 4 June 1986, a senior MK operative, Mr Philip Nwanematsu (aka Pansu Smith), and two other ANC members, Mr Busi 'Mzala' Majola and Mr Sipho Dlamini, were killed in a raid on a house in the Dalraich section of Mbabane, Swaziland. Pansu was believed by the security police to be running an ANC cell involved in the movement of weapons and giving short courses on the use of limpet mines. Members of the Soweto Intelligence Unit (SIU) had succeeded in infiltrating the cell.

262 After the raid its leader, Eugene de Kock, drove through the night to report directly to police commissioner Johan Coetze. At a 05h30 meeting at Coetze's home, at which Willem Schoon and Colonels Schalk Jan Visser (head of the Eastern Transvaal Security Branch) and Tiekie de Jager of the SIU were also present, a report was given to Coetze<sup>18</sup>. The then head of the security police, General van der Merwe [AM4157/96], applied for amnesty for this operation, although he gives no details of his precise role in it. Mr Chris Hlongwane gave the Commission a statement on his role as an informer in this operation. He states that he was paid R7 000.

263 The attacking party comprised a combination of Vlakplaas, the SIU and Eastern Transvaal Security Branch members. They included Captains Willem 'Timol' Coetze and Anton Pretorius, along with De Jager from the SIU, Colonel Deetlefs and Captain Paul van Dyk from Ermelo and Sergeant Douw Willemse from Vlakplaas.

264 On 14 June 1986, Special Forces commandos attacked a house in Gaborone and killed an ANC member, Mr Matsela Pokolela, and injured two other Batswana citizens. Few details are available on this operation other than that, in 1990, a Special Forces member named Mr Willie van Deventer claimed to have participated in the raid as a member of the CCB.

**THE COMMISSION HAS BEEN UNABLE TO VERIFY THIS CLAIM AND MAKES NO FINDING ON THIS ATTACK.**

265 Willem Schoon's amnesty application contains details of an operation he authorised in Ramotswe, Botswana late in 1986. The targets of the operation were two MK members Mr Aubrey Mkhwanazi (aka 'Take Five') and his wife, Ms Sadi Pule. Both were believed by the security police to be members of MK's Special Operations

<sup>18</sup> E De Kock, A Long Night's Damage, p. 136

Unit. The raid, for which the head of the Western Transvaal Security Branch, Brigadier Wickus Loots, has applied for amnesty, was undertaken by members of the Zeerust Security Branch. Aubrey Mkhwanazi and Sadi Pule were out at the time of the raid, but a seventy-two-year-old Botswana citizen, Ms Thero Segopa, was killed.

- 266 On 12 December 1986, a sixteen-strong team of Special Forces operatives conducted an operation in Swaziland in which the head of the ANC's Natal Regional-Political Military Council, Mr Shadrack Maphumulo [KZN/NNN/632/DN], and a thirteen-year-old Swazi national, Danger Nyoni, were killed. Four other foreign nationals were abducted. They were Danger's father, Mr Welcome Nyoni, a Swiss couple, Ms Corrine Bischoff and Mr Daniel Schneider, and Ms Grace Cele, the Swazi representative of a Canadian NGO. After protests from the Swazi and Swiss governments, all the foreigners were released and returned to Swaziland. Cele was, however, held for over two months and intensely interrogated and tortured before being released.
- 267 In the attempts to capture Maphumulo, his house was blown up and destroyed. Resisting arrest, he was shot and wounded. He died *en route* to South Africa. Eugene de Kock said that Commandant Corrie Meerholtz, who commanded the operation, shot Danger Nyoni while the boy was trying to protect his father. This information has not been corroborated.
- 268 Information on this raid was supplied to the Commission by three sources, Eugene de Kock, Christoffel Nel and one of the participants in the operation, Mr Felix Ndimene (aka Rob Dickson and Bob Dixon).
- 269 The latter was a Mozambican who was himself a victim of a cross-border operation on 23 August 1982. On this occasion, South African Special Forces commandos wearing FRELIMO (Mozambique Liberation Front) uniforms abducted him and another Mozambican by the name of 'Fernando' (who, according to Ndimene, was later poisoned and killed at Phalaborwa) from the Mozambican/Swazi border village of Namaacha. In this raid, two Mozambican civilians (Mr Arnaldo Mahanjane and Mr Aurelio Duzentos Manjate) who, according to Ndimene, "happened to be in the way" were killed. In addition, a Portuguese citizen, Mr Antonio di Figueredo, was shot and killed in one of the houses entered during the raid. After a year of detention, Ndimene was 'turned' and became one of the first black members of Special Forces.

270 In testimony to the Commission, Christoffel Nel stated that he was present in the operations room at Special Forces headquarters on the night of this planned attack. As a mission involving more than one arm of service, Nel claims, "the President would know about it and sanction it"<sup>19</sup>. He stated that one of the co-ordinators of the operation was then Brigadier (later General) Chris Serfontein. He further states that a number of other senior military officers, including three generals, were present in the room during the operation.

271 Defending the Swazi raid, the South African government revealed it had been undertaken to pre-empt operations planned to commemorate the twenty-fifth anniversary of the launch of MK's armed struggle four days later. When Foreign Minister Pik Botha was asked if he regretted what had happened, he replied: "I do not regret it. If the decision were to be made again, I would make the same decision".

272 This Swazi raid was one part of a two-pronged operation, the other part of which was a planned seaborne raid by Recce 4 members on Maputo, where twelve ANC targets (including Mr Albie Sachs, Mr Indres Naidoo and Ms Sue Rabkin) were targeted for elimination in attacks on ANC houses. The operation was called off when the submarine party stationed at the entrance to Maputo harbour failed to make contact with Mr Dave Tippet, the Special Forces agent in Maputo, who was to guide the operatives to their target.

**THE COMMISSION FINDS THAT THE OPERATION OF 12 DECEMBER 1986 IN SWAZILAND WAS AUTHORISED BY THE SOUTH AFRICAN GOVERNMENT AT THE HIGHEST LEVEL AND CARRIED OUT BY OPERATIVES OF THE SOUTH AFRICAN DEFENCE FORCE'S SPECIAL FORCES WHO ARE ACCOUNTABLE FOR THE UNLAWFUL KILLINGS AND ABDUCTIONS.**

**IN THE CASE OF THE ABDUCTIONS OF MR FELIX NDIMENE AND A CIVILIAN KNOWN AS 'FERNAN-DO' AND THE MURDER OF TWO MOZAMBICAN CITIZENS AND ONE PORTUGUESE CITIZEN IN MOZAMBIQUE IN AUGUST 1982, THE COMMISSION FINDS THAT UNKNOWN SADF SPECIAL FORCES' OPERATIVES WERE RESPONSIBLE.**

273 Over the Easter weekend in 1987, an operation to assassinate a senior member of MK's Special Operations Unit, Mr Johannes Mnisi, failed. Instead, three Batswana citizens were killed and seven injured. Mnisi was believed by the security police to have been involved in the Church Street bombing in 1983. The plan to kill him was developed at a meeting attended by amnesty applicants Brigadiers Loots and Jack Cronje, as well as Colonel PR Crause, an agent by the name of McKenzie and a senior Special Forces commander who has not applied for amnesty. It was then presented to senior management of the security police

<sup>19</sup> Section 29 hearing, transcript, 18 May 1998, p. 170

and approved at that level. The security police's regional co-ordinator for the Western Transvaal, General Albertus Steyn, applied for amnesty for his role in this operation. The then head of the security police was named at the amnesty hearing of Brigadier Cronje as having approved the plan, but did not apply for amnesty.

- 274 The plan involved Mr Keith Charles McKenzie, an agent from Eersterus in the Transvaal, who had successfully infiltrated MK in Botswana. He was to drive a minibus he regularly used to transport MK weaponry, into which a bomb would be built. The vehicle, which had a tracking device, was to be delivered to Mnisi and detonated by remote control once he was in the vehicle.
- 275 Unbeknown to the planners, McKenzie was under suspicion. On his arrival in Botswana, McKenzie was persuaded by MK members to travel to Francistown, where he was arrested by MK security and taken to Lusaka.
- 276 Unaware that the vehicle was carrying a bomb, MK returned it to Gaborone where it was parked outside the home of a Batswana family sympathetic to the ANC. That night it exploded. According to both the ANC and the Botswana government, the bomb was deliberately detonated by the security police once it was realised that the plan had gone awry. A Batswana woman and two of her children, a seven-year-old and an infant, were killed while seven others were hurt.
- 277 The incident caused a considerable rift in relations between the governments of South Africa and Botswana. On 24 June 1987, The DFA issued a formal note in which it denied any South African government involvement in the operation and alleged that McKenzie was an active member of MK. In the light of the information available to the Commission, the DFA either deliberately put out a false statement or unwittingly reproduced falsehoods supplied to it by other agencies.
- 278 On 22 May 1987, the head of MK's Natal machinery, Mr Theophilus Dlodlo (aka Viva) [JB00165/990VE] and two passengers in his car, Ms Mildred Msomi and Mr Tutu Nkwanyane, were shot and killed in Mbabane, Swaziland. Two other passengers, MK member Mr Shezi Msimang and Ms Lungie Zwane, were wounded in the attack. Ms Zwane lost an eye as a result. Although all in the car were South Africans, only Viva and Msimang were ANC activists.
- 279 Six weeks later, on 9 July 1987, Mr Cassius Make, ANC NEC member and senior MK commander, Mr Paul Dikaledi, another senior MK operative, and Mr

Augusto Elizah Tsinini, a Mozambican national and ANC supporter, were killed in an ambush at Lobamba, Swaziland. Make and Tsinini had been collected from Matsapha airport by Dikaledi and were travelling in a taxi driven by a Swazi citizen, Mr 'Boy' Gamedze. He survived the ambush.

280 In both of these assassinations, security police informers played important roles. Evidence before the Commission shows that Gamedze was an informer and that he stopped his taxi at a prearranged isolated spot. This view of Gamedze as an informer has been disputed by one of those involved in the operation, Warrant Officer 'Lappies' Labuschagne of the Middelburg security police. He ran a network of sources in Swaziland and is adamant that Gamedze was neither one of them nor an agent of any other operative. Gamedze died sometime after this incident in a car accident.

281 Eugene de Kock has linked an informer code-named 'Rasta' to Viva's killing. Moreover, in its second submission to the Commission, the ANC included the confession of Ms Nompumelelo Zakade as one of its case studies of confessions by agents. She is said to have provided information for the killings of Viva and Dikaledi and others, as well as on the house in Dalraich where Pantsu Smith and others were killed in June 1986. For this latter operation another agent, Mr Chris Hlongwane, was paid R7 000. For the Viva and Dikaledi/Make killings, Zakade is said to have been paid R8 500.

282 Colonel Johan Botha was involved in these two operations with Labuschagne. Both applied for amnesty.

283 Two days after the murder of Viva and his companions, Labuschagne and Botha, authorised by Schalk Visser, head of the Eastern Transvaal Security Branch, abducted Ms Sheila Nyanda from Mbabane, Swaziland. An activist in her own right, Nyanda was also the wife of the head of MK's Transvaal machinery, Mr Siphiwe Nyanda (aka Comrade Gebuza). They took her to Piet Retief where they unsuccessfully tried to persuade her to become an informer, then placed her in detention. Nyanda's car was retained – in effect stolen – by Botha and Labuschagne and used by them in their ambush of Make, Dikaledi and Tsizini.

284 In testimony to the Commission, Labuschagne stated that Sheila Nyanda was abducted in an attempt to draw out her husband.

285 The Eastern Transvaal branch of Trewits had identified Dlodlo as a target and there was a general authorisation for the killing of Make in his capacity as an ANC NEC member. Labuschagne told the Commission that he had received a letter of thanks in connection with the latter's death from Law and Order Minister, Mr Adriaan Vlok.

286 On 11 May 1987, Ms Tsitsi Chiliza [JB05088/02PS], a Zimbabwean citizen and the wife of an ANC member, a Mr Masondo (aka Mhlope) , was killed when a booby-trapped television set exploded. Two young children present in the room survived the explosion. Ms Chiliza was not the intended target of what was a South African MI /Special Forces operation for which their agent, Mr Leslie Lesia was arrested in Mozambique and handed over to the police in Zimbabwe. There he made a confession and was charged with murder. He was never tried, possibly because of the severity of the torture to which he was subjected and the fact that his confession could have been ruled inadmissible. He was, however, kept in detention until July 1990.

287 On Lesia's return to South Africa, he voluntarily gave a statement to a human rights organisation in which he confirmed his role as an operative handled by MI agents known to him only as Becker and Brown. He confirmed that he had taken to Mozambique a booby-trapped television supplied to him by Becker.

288 Lesia was also used in at least two assassination attempts by poisoning. On a trip to Botswana, he was instructed by Becker to supply a crate of Castle Lager, which had been spiked with poison, to the Soviet embassy in Botswana. The Commission is not aware of any deaths or illnesses as a result of this delivery.

289 In 1987, he delivered a consignment of liquor, including beer containing poison, to an ANC contact in Mozambique. Soon thereafter, an ANC member died after drinking beer at a party. An amnesty application has been received from Captain Henri van der Westhuizen [AM4388/96] for supplying the liquor to an agent for use in Mozambique. Van der Westhuizen was at that time responsible for developing DCC target dossiers on Swaziland and Mozambique. Van der Westhuizen refers to the victim as Mr Gibson Mondlane while Lesia refers to him as Gibson Ncube.

290 Another MK member killed in similar circumstances in 1988 or 1989 was Mr Knox Dlamini. Based in Swaziland, he died after an agent had been instructed by his handler, DCC operative Commandant Jan Anton Nieuwoudt, to supply Dlamini with poisoned beer. Soon thereafter, Dlamini died in an Mbabane clinic after

developing hepatitis, the intended outcome of the administration of this drug. Nieuwoudt applied for amnesty for this operation. He names his superior officer as instructing him to undertake this task. He cannot be named as he has not applied for amnesty. Nieuwoudt also states that the agent who gave the beer to Dlamini was paid R8 000 for this.

**THE COMMISSION FINDS THAT MS TSITSI CHILIZA AND AN ANC MEMBER IN MOZAMBIQUE WERE KILLED AS A RESULT OF AN OPERATION MANAGED BY MEMBERS OF MILITARY INTELLIGENCE. IT IS UNABLE TO MAKE A CONCLUSIVE FINDING ON THE KILLINGS OF MR GIBSON MONDLANE/NCUBE AND MR KNOX DLAMINI AS THE AMNESTY APPLICATIONS PERTAINING TO THEIR KILLINGS WERE PENDING AT THE TIME OF REPORTING.**

- 291 In September 1987, an attempt was made in Harare on the life of Ms Connie Braam, the head of the Dutch Anti-Apartheid Movement. Checking into the Bronte Hotel after a conference, Ms Braam found two jackets hanging in a cupboard in her room.
- 292 Later that evening, Ms Braam wore one of the jackets for about an hour while she wrote a report. She awoke in the early hours with severe abdominal pains and was seriously ill for several days, but recovered. It was only after she heard of the attempt to kill the Reverend Frank Chikane through the contamination of his clothes that Ms Braam began to suspect she had been a victim of a similar poisoning attempt.
- 293 The Commission has been unable to corroborate that Ms Braam was subject to an assassination attempt, but accepts that she could well have been a target for elimination by poisoning. This view is based on evidence before the Commission on the use of poisons as a method of elimination by South Africa's security services and on the testimony to the Commission by Christo Nel that he was twice asked to arrange for the supply of poisons to the NIS for use in Zimbabwe. Further, the Commission has considered evidence from Mr Leslie Lesia that, whilst in Chikurubi prison, he was held with South African agents imprisoned who told him that "they took their apparatus into Zimbabwe by plane. This apparatus included poison, bombs ... "<sup>20</sup>. Court papers filed by Mr Guy Bawden in support of a damages suit against the Minister of Defence, General Magnus Malan, included a statement to the effect that in December 1987 he was asked by his cousin, Mr Barry Bawden, to collect materials parachuted onto his farm by the SADF. What he found was grenades, firearms, clothing and chemicals. This pick-up occurred three months after Ms Braam was 'targeted', but is indicative of the use of contaminated clothing.

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<sup>20</sup> Statement 8 November 1990, p. 52

294 Questioned about the Braam case, Nel stated that:

*It sounded or resembles the typical type of chemical operation where a substance could have been sprayed onto such items of clothing. It was known to me that such capabilities existed due to a planning cycle that we went through to explore the possibilities of contaminating a consignment of clothes destined for Dar es Salaam.*

295 On 10 January 1988, Mr Obed Amon Mwanza, a Zimbabwean, was killed and six ANC members injured when the truck Mwanza was driving exploded outside an ANC transit house in Bulawayo. This was a South African security operation undertaken by agents located in Zimbabwe. One of those agents, Mr Philip Masiza Conjwayo, a former member of Zimbabwe's Special Branch, made a statement to the ANC in which he said that he was handled by Captain Mary Baker of the South African security police.

296 According to the ANC document, another South African agent, Mr Henry Thompson, gave Conjwayo Z\$8000 for this operation, to acquire a vehicle and to find a driver. Mwanza was hired at the Bulawayo Employment Exchange and was paid Z\$20.00 to drive the truck. Before he took possession of the truck, it was booby-trapped by Mr Kit Bawden and Mr Michael Smith. They then followed Mwanza as he drove the vehicle to a designated address. As he parked the vehicle, Bawden detonated it by remote control.

297 According to information given to the Commission by one of those involved in the operation, this was a CCB project. The orders were given by a member of the CCB's inner circle, a senior Special Forces operator who did not apply for amnesty and so cannot be named. The orders were passed on to the Zimbabwean agents via Mr Gray Branfield and Mr Alan Trowsdale.

298 Conjwayo, Michael Smith, Barry Bawden and the head of the Bulawayo CIO, Kevin Woods, were arrested for this operation and sentenced to death for murder. The sentences were commuted to life imprisonment after five years. Kit Bawden managed to evade the net by fleeing to South Africa at the time of the first arrests. Woods was not directly involved in the operation and was not even in Zimbabwe at the time of the attack. He also denied being formally recruited but admitted that "he gave a hand" when asked to do so – largely in the form of intelligence. For this, he was paid a retainer, reimbursed for expenses and given 'perks' like a holiday in Durban.

299 Woods applied for amnesty for his role in this and other operations. He claimed that his role in operations inside Zimbabwe was limited to providing intelligence and logistic and surveillance (photographic) assistance for sabotage attacks on ANC facilities in Harare and Bulawayo. He passed his information on to his runners, whom he names as Mr Alec West (NIS) and Mr Alan Trowsdale (DMI).

300 All attempts by the Commission to gain access to Woods and other agents gaoled in Zimbabwe were blocked by the Zimbabwe government.

**IN REGARD TO THE MURDER OF MR AMON MWANZA, THE COMMISSION ACCEPTS THE VERDICT OF THE COURTS IN ZIMBABWE.**

301 On 13 January 1988, the body of ANC member Mr Jacob Molokwane was found in a car on the road between Francistown, Botswana, and the Zimbabwe border. He had been shot several times. His name appears on the ANC's list of members killed in exile. No amnesty applications were received for this killing and the Commission was unable to uncover any conclusive information on it, or to make a finding.

302 Mr Mazizi 'Mpilo' Maqkeza and Mr Mbulelo Ngona (aka Khaya Kasibe or KK) were underground MK operatives in the Transkei in the mid-1980s. In January 1988, Ngona fled to Lesotho. Sometime thereafter he was joined by Maqkeza.

303 On 25 February 1988, Maqkeza and Ngona, along with a University of Lesotho student, Mr Thandwefika Radebe, were stopped at a roadblock in Lesotho by a group described in different press statements as "Basotho police" and "a group of armed men". After being searched, the three were apparently told by the group they had orders to shoot them. Ngona managed to escape but Radebe was killed and Maqkeza left for dead on the side of the road. On 15 March 1988, Maqkeza, recovering from his wounds, was shot and killed in his hospital bed. The shooting occurred shortly after his bed had been swapped with another patient and he had been moved under an open window. Uncorroborated information given to the Commission has attributed the shooting to a member of the Ladybrand security police.

304 The fate of Ngona is unknown to the Commission. His mother appeared before the Commission in Port Elizabeth and said that, within days of the shooting, he was seized from his hiding place in Roma, Lesotho, by four men, placed in a vehicle and "tied like a dog between the seats". He has never been seen again.

**THE COMMISSION FINDS THAT MR MPILO MAQEKEZA AND MR THANDWEFIKA RADEBE WERE KILLED BY UNKNOWN PERSONS, ACTING ON THE INSTRUCTIONS OF UNKNOWN PERSONS AND**

**THAT MR MBULELO NGONA WAS ABDUCTED AND IN ALL LIKELIHOOD KILLED BY UNKNOWN PERSONS.**

305 Between 1980 and 1988, Mr Godfrey Motsepe [JB00606/02PS] was based in Brussels as the ANC's diplomatic representative to the BENELUX countries. In a submission to the Commission, Mr Motsepe alleged that he had twice been the target of assassination attempts in 1988. In the first, on 2 February 1988, two shots were fired through the window of the office in which he was working, but missed him. In the second, on 27 March 1988, a seventeen-kilogram bomb was discovered in his office. This occurred two days before the killing of Ms Dulcie September in Paris.

306 In the course of the Belgian police investigation, Motsepe allegedly recognised Warrant Officer Joseph Klue from photographs as the perpetrator of the shooting. A former military attaché to London in the early 1980s, Klue had been expelled from Britain for his involvement in the sabotage of the ANC mission in London. The Belgian police issued an international warrant of arrest for him, but it was never executed.

307 The Commission's investigation led it to doubt Klue's involvement. It believes that the greater possibility is that the attacks on Motsepe and September (see below) formed part of a CCB operation undertaken in collusion with covert French right-wing elements.

308 On 29 March 1988, Ms Dulcie September, the ANC chief representative in France, was assassinated in Paris. She died instantly when hit by a volley of five bullets fired at close range. Though no submission was made to the Commission on the murder, it was identified as a priority case for investigation. A delegation travelled to Paris and elicited the co-operation of the French police, who made available to the Commission the files of the investigating judge, Ms Claudine Forkel.

309 In her summary document dated 17 July 1992, Ms Forkel stated that she was unable to identify the assassins. However, the document makes clear that it was her view that September was killed in the context of a plan by the South African state to eliminate senior ANC figures in Europe. She noted that September's assassination had followed closely on attempts on the life of Mr Godfrey Motsepe, the ANC chief representative to the BENELUX countries, in Brussels on 4 February and 27 March 1988.

310 Ms Forkel's interest focused on Mr Francois Richard Rouget. A former member of the French army, Rouget was said by Ms Forkel to be the leader of a group collecting information on ANC members in Europe. Another member of this group was Ms Antonia Soton, one-time companion of Rouget, who confirmed to a French journalist investigating the murder that she spied on ANC targets.

311 In 1985, Rouget joined the Presidential Guard in the Comores, an outfit funded by South Africa. At the time, the Comores was used by South African security as a listening post tracking ANC communications (mainly telex) traffic and as a conduit for sanctions-busting in general and the supply of weapons to RENAMO in particular.

312 In January 1987, Rouget left the Comores and moved to South Africa where he worked as a representative of the Europe-Africa Export company. This position required him to visit Europe frequently. Ms Forkel accepted that Rouget was not one of the killers as his looks did not correspond with the description of the two killers, but her conclusion in regard to him was that his character, history, relationship to the world of mercenaries, stay in South Africa and frequent travelling to Europe amounted to "grounds for suspicion".

313 In an interview with the Commission in April 1998, Eugene de Kock described the September assassination as a CCB operation managed by Commandant Dawid Fourie, its deputy head, in which the two who pulled the trigger were members of the Comorian Presidential Guard. He named one of these as Mr Jean-Paul Guerrier (aka Captain Siam) who, he claimed, was also involved in the 1989 assassination of President Abdallah. The Commission cannot, however, corroborate the identity of Guerrier as one of the two assassins.

314 The Commission was able to corroborate two aspects of this information. One, that Dawid Fourie (aka Heine Muller) was responsible for the CCB's external operations. This information was supplied to the Commission by Christoffel Nel, the CCB's head of intelligence. Two, that in 1996 Guerrier was arrested by the French police and charged along with Mr Bob Denard and another former member of the Presidential Guard, Ms Dominique Malacrino, with the murder of Abdallah.

315 Testifying before the Commission on 18 May 1998, Christoffel Nel described the murder of Dulcie September as one of the CCBs "successes". Pressed on this, he stated that "... from the general atmosphere at the CCB head office whenever

reference was made to Dulcie September's death, I had never any doubt in my mind that it was a CCB operation"<sup>21</sup>.

316 Asked whether the trigger-pullers could have been hired from the Comorian Presidential Guard, Nel said: "I would say it would be ludicrous for any South African group to use a South African to kill Dulcie September. I always expected that if this case is exposed that we will find that it's a French Foreign Legion person or something in that order"<sup>22</sup>

**WHILE IT IS NOT ABLE TO MAKE A DEFINITIVE FINDING ON THE ASSASSINATION OF MS DULCIE SEPTEMBER, THE COMMISSION BELIEVES ON THE BASIS OF THE EVIDENCE AVAILABLE TO IT THAT SHE WAS A VICTIM OF A CCB OPERATION INVOLVING THE CONTRACTING OF A PRIVATE INTELLIGENCE ORGANISATION WHICH, IN TURN, CONTRACTED OUT THE KILLING.**

317 On 7 April and 13 October 1988 respectively, Mr Albie Sachs [KZN/JD/001/AM] and Ms Joan and Mr Jeremy Brickhill [KZN/JD/001/AM] were severely injured in separate car bomb explosions in Maputo and Harare. Both of these operations were undertaken by Special Forces covert operatives. Based on its investigations and the amnesty application of Henri van der Westhuizen, the Commission believes the attack on Mr Sachs to have been the work of a covert unit under the control of a senior Special Forces operative. However, Van der Westhuizen suggests that the target of the operation was not Sachs but Mr Indres Naidoo, ANC diplomat in Maputo. The bomb was placed in Naidoo's car which, unbeknown to the operatives, Sachs had borrowed on this particular day. Nonetheless, as Sachs was a high-profile ANC member and target, the operation was regarded as a success. The operative who placed the bomb was paid R4 000 for his work.

318 The Brickhill bombing was carried out by South African covert agents in Zimbabwe. Mr Christopher 'Kit' Bawden and his brother, Mr Guy Bawden, are known to have been involved in this particular operation. Kit was the leader of a covert unit linked to South African Special Forces, which had operated since Zimbabwe's independence in 1980. Guy only became peripherally linked to the group when he moved to Zimbabwe in November 1986. Surveillance of the Brickhills was done by Mr Philip Conjwayo.

319 According to press reports, Kit was promised R75 000 for a successful operation. In a filmed television interview in November 1991, Jeremy Brickhill and Guy Bawden met and the latter apologised for his involvement in the attempted killing.

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<sup>21</sup> Transcript, p. 90; p. 131

<sup>22</sup> Transcript, p. 134-5

320 No amnesty applications were received for direct involvement in these attempted assassinations.

**THE COMMISSION FINDS THAT SOUTH AFRICAN SPECIAL FORCES AGENTS WERE RESPONSIBLE FOR THE ATTEMPTS TO KILL MS JOAN AND MR JEREMY BRICKHILL AND MR ALBIE SACHS. THEY WERE ALSO RESPONSIBLE FOR THE INJURIES SUFFERED BY CIVILIANS IN THE VICINITY OF THE EXPLOSIONS. THE GROUP RESPONSIBLE FOR THE ASSASSINATION ATTEMPT ON THE BRICK-HILLS WAS LED BY MR CHRISTOPHER BAWDEN.**

321 In March/April 1989, a joint Vlakplaas-SADF Special Forces group attacked an ANC transit facility at Ramathlabama, approximately ten kilometres inside Botswana. According to De Kock, information on this facility was passed to South Africa by Botswana's intelligence service. After keeping the facility under surveillance for a week, Brigadier Loots, head of the security police in the Western Transvaal, authorised the assault. It was led by Captain Martiens Ras [AM2735/96] and included De Kock [AM0066/96] and Willie Nortjé, all of whom have applied for amnesty, and three Special Forces members who cannot be named as they did not submit amnesty applications.

322 The house was blown up in the attack and, according to the amnesty applicants, three unnamed ANC members were killed in the operation along with one security guard. The ANC list of members killed in operations outside the country contains no names of members killed in Botswana at this time.

323 On 15 April 1989, nearly ten years after a parcel bomb attack on Ms Phyllis Naidoo and others (see earlier), her son Mr Sadhan Naidoo and a fellow ANC member, Mr Moss Mthunzi, were killed in Lusaka, Zambia. They were shot while watching television on an ANC farm outside Lusaka where Naidoo was the manager and Mthunzi a labourer.

324 According to information supplied by Eugene de Kock and Sergeant Daniel Izak Bosch, a Zimbabwean and former member of the Selous Scouts, Chris Kentane, was contracted for this operation. He was recruited by De Kock and was handled by Bosch. He was, according to De Kock, paid an unspecified amount for this killing and for that of an unnamed and unknown ANC member he claimed to have killed "on a road between Plumtree in Zimbabwe and Gaborone in Botswana".

**THE COMMISSION CAN MAKE NO FINDING ON THE KILLING OF MR SADHAN NAIDOO AND MR MOSS MTHUNZI DUE TO THE FACT THAT THE AMNESTY APPLICATIONS RELATING TO THE KILLING WERE PENDING AT THE TIME OF REPORTING.**

325 In 1989, the Secretary General of the South African Council of Churches, the Reverend Frank Chikane [JB03725/01GTSOW], became seriously ill while on a visit to the United States. When he was admitted to hospital, it was discovered that he had been poisoned by a chemical substance sprayed onto his underwear. According to Eugene de Kock,<sup>23</sup> members of the SADF had gained access to Chikane's suitcase at an airport and applied the toxic substance. Other information has attributed this operation to the CCB. No amnesty applications were received for this incident.

326 A statement given to the Commission under oath by a former member of the security police, Mr Manuel Oliphant, confirms that Chikane was a target for possible elimination. Oliphant states that he was instructed by a member of the SIU and two members of MI to undertake photographic reconnaissance on Chikane's house, as an instruction had been received from security police headquarters in Pretoria that Chikane "should be assassinated". The reconnaissance was done but, while Oliphant was waiting for "a go-ahead" on the operation, he read of Chikane's attempted poisoning. In the absence of corroborated evidence, the Commission could make no definitive finding on this case.

## **Abductions**

327 Reference has already been made in the above section to a number of cross-border abductions. The perpetrators in each case were either security police or SADF Special Forces members. There were eight victims. Two were killed. One was 'turned' and became a Special Forces member until he was able, following the 1990 change in the South African situation, to return to his home country. The four foreigners taken from Swaziland in 1986 were released. One, Ms Sheila Nyanda, was held in lengthy detention before being released – again after the political situation had changed in 1990.

328 The fate of these abductees was not, however, typical. The evidence available to the Commission suggests that the more likely fate of an abductee was to be either 'persuaded' to become security a force operative or *askari* or to be killed.

### **1960–1969**

329 The earliest cases of cross-border abductions in this period date from the early 1960s when a number of opposition activists who had taken refuge in some of South Africa's neighbouring states were kidnapped and forcibly returned to

<sup>23</sup> A Long Night's Damage, pp. 175–6.

South Africa. In each instance, the sovereignty of the British government in respect of its colonial possessions was violated by South African security agents. In 1961, security agents kidnapped from Basutoland three fugitives from the Pondoland uprising, namely, Mr Anderson Ganyile, Mr Ignatius Ganyile and Mr Mohlovoa Matseko. In 1962, four SWAPO sympathisers including Mr Kenneth Abrahams and Mr Hannes Beukes were kidnapped from Bechuanaland. In 1964, two alleged African Resistance Movement (ARM) members, Ms Rosemary Wentzel and Mr Dennis Higgs, were kidnapped from Swaziland and Northern Rhodesia respectively. All except Wentzel appealed to the courts for relief from an illegal abduction from foreign soil and were successful.

330 While there is no evidence that the British authorities collaborated with the abductors in the above cases, there are other cases where they did. For example, Mr Russel Maphanga [KZN/FS/142/DN], Mr Ndoda Anthony Xaba [KZN/PMB/002/PM] and thirty-six other ANC members were arrested by the Northern Rhodesian police in 1963 while attempting to cross from Southern into Northern Rhodesia. Handed back to the Southern Rhodesian authorities, they were then taken to the Beit Bridge border post and given over to the SAP. All were detained and severely tortured before being tried and convicted of leaving South Africa illegally. On the expiry of their sentences, they were re-arrested, tried and convicted of leaving the country with the intention of undergoing military training. In 1965, they were sentenced to seven years' imprisonment.

331 In July 1965, a South African refugee, Mr Michael Dingake, was arrested by Southern Rhodesian police *en route* from Botswana (where he had asylum status) to Zambia and handed over to the South African security police. After severe torture at the hands of Major '*Rooi Rus*' Swanepoel and others, he was tried and sentenced to fifteen years' imprisonment.

## **1970-1979**

332 A South African refugee in Lesotho, Mr Herbert Fanele Mbale, was abducted in 1972 and handed over to the Bloemfontein Security Branch. Mbale had studied in the Soviet Union and was an active member of the ANC in Lesotho. His abduction was witnessed by a staff member of the UNHCR, which resulted in considerable publicity and an official protest by the Lesotho government. Mbale was returned to Lesotho with an official apology from the South African government. Willem Schoon applied for amnesty.

333 Two years later, another refugee, Mr Sydwell Phiri [JB00143/010GTSOW] was abducted from Maseru by the South African Police and taken to Bloemfontein in the boot of a car. He was thereafter moved to Barberton, where he was so severely tortured that he suffered permanent brain damage and was left semi-paralysed. The Commission was not able to corroborate the facts alleged in the statement.

334 On 20 March 1976, two ANC members, Mr Cleopas Ndhlovu and Mr Joseph Nduli, were abducted from Swaziland. According to the amnesty application of the late Colonel ARC 'Andy' Taylor [AM 4077196], the abduction was carried out by a Special Task Force (STF) formed in 1976 and headed by Captain (later General) JJ 'Blackie' de Swardt. Eight members of the STF were involved in the operation. The abductees were taken initially to a police camp called 'Island Rock' near Sodwana Bay, where they were tortured.

335 In July 1976, Nduli, Ndhlovu and eight others (including Mr William Khanyile, who was to die later in the 1981 Matolo raid in Mozambique) were tried on charges under the Terrorism Act. All except Khanyile were convicted. Five were sentenced to life imprisonment, while Nduli and Ndhlovu were given eighteen and fifteen-year sentences respectively. A separate application to the Supreme Court for their release on the grounds of their kidnapping from foreign soil failed when the Court ruled that it had jurisdiction to try them even if they had been abducted.

336 In the same month as the Nduli and Ndhlovu abductions, three members of the PAC – Mr Nogaga Morgan Gxekwa, Mr Isaac Mhlekwa and Mr Stanley Thabo Pule – were also abducted from Swaziland and taken to South Africa. After being held in detention for more than a year, they were charged in terms of the Terrorism Act with training guerrillas in northern Natal and in Swaziland. Gxekwa, a founder member of Poqo and APLA, and Pule were acquitted but immediately re-arrested on other charges. Mhlekwa was sentenced to seven years' imprisonment. As in the Nduli case, defence counsel's argument that the court had no right to try the three on the grounds of their extra-territorial abduction was rejected.

337 In January 1978, the Swazi press reported that members of the SAP had forcibly removed two men from a car travelling near Big Bend in Swaziland and taken them to South Africa. They were a South African refugee, Mr Victor Mayisela [JB05926/01GTSOW], and a Swazi sugar worker, Mr Caiphus Mamba. The Commission failed to uncover any information on their fate.

338 In another incident, the plane carrying a South African refugee, Mr Zingiva Winston Nkondo (aka Victor Matlou), to Lesotho in December 1979 landed in Bloemfontein due to engine trouble. The passengers were then transported to Lesotho by bus. At the border post, Nkondo was arrested by the SAP and detained for five months. Charged under the Terrorism Act, he appeared in court where an application that his detention was unlawful and a violation of Lesotho's territorial integrity was dismissed. The charges were dropped and Nkondo was released in May 1980 and allowed to proceed to Lesotho.

339 In 1978, Mr Peter Nkosinathi Dlamini [KZN/NM/100/NQ] was abducted from Swaziland by unknown members of the security police and forced to become an *askari*.

### **1980-1989**

340 By 1981, Dlamini's loyalty as an *askari* was in doubt. So too was that of Mr Vuyani Mavuso, an ANC guerrilla who had been abducted during the Special Forces raid on Matola in Mozambique on 30 January 1981. He and another ANC member, Mr Motidi Ntshekang (aka 'Ghost') and Mr David Ntombela, a Mozambican security guard, were forcibly taken to South Africa. The Mozambican was detained for over two years before being released and returned to Mozambique. Ntshekang became an *askari* but was later imprisoned for murdering his girlfriend.

341 Mavuso refused to co-operate. In September 1982, Colonel Schoon, head of C section, ordered that Dlamini and Mavuso be held *incommunicado* in a 'safe house' in Komatipoort. The intention was to change their attitudes. This failed and their elimination was ordered. They were killed by a Vlakplaas squad led by Dirk Coetze. Brigadier Schoon applied for amnesty for this operation.

342 On 19 February 1981, Dirk Coetze was linked to the abduction from Swaziland of Mr Dayan 'Joe' Pillay, a refugee in Swaziland working as a schoolteacher. Joe Pillay was a relative of a senior MK intelligence operative, Mr Ivan Pillay. It seems that this abduction was a case of mistaken identity. The operation also misfired in that one of the abductors dropped his identity card at the scene and was traced to Manzini where he and three of his fellow abductors were arrested. Portuguese citizens living in Swaziland were contracted for this operation. Others involved in the abduction, and who actually took Pillay into South Africa were Vlakplaas-based *askaris* Petros Kgodi and Jeff Bosigo.

343 The four arrested in Swaziland were charged. On the day of their bail hearing, the public prosecutor assigned to the case was instructed by his superior (whose instructions came from the Swazi Prime Minister) not to oppose bail. He refused and was replaced on the case. Granted bail, the four 'disappeared' into South Africa and were housed at Vlakplaas for some time.

344 Pillay was held in Pretoria for a period, during which he was tortured as well as having a so-called truth serum administered to him. Following a protest from the Swaziland government, Pillay was eventually returned to Swaziland. Dirk Coetzee [AM0063/97] applied for amnesty for this incident. So too did Brigadier Schoon, although he claims that Coetzee acted on his own without any authorisation. The hearing was pending at the time of reporting.

345 In May 1982, Mr Peter Lengene, a student leader who fled South Africa in 1976, was abducted from Gaborone, Botswana. During the course of his exile, he became active in the South African Students Revolutionary Council. His abduction was carried out by members of the SIU. Lured to a house by an informer, he was forced into the boot of a car and taken to Rustenburg where he was held for a period during which he was assaulted and tortured. He finally agreed to join the security police. Amongst those involved in the abduction, for which they have applied for amnesty, were SIU members Captain Willem 'Timol' Coetzee, Captain Anton Pretorius and Lieutenant Colonel Antonie Heystek, who was in charge of the operation.

346 On 14 April 1984, four Swaziland-based members of MK's 'Special Operations' unit were abducted from a low-security police station in Bhunya, a small town close to the South African border. They were Mr Chris Gaboutlwelwe Mosiane, Mr Vikelisizwe Collin Khumalo, Mr Michael Dauwanga Matikinca and Mr Ernest Nonjawangu, the last three being referred to in various amnesty applications as 'James', 'Tebogo' and 'Bhuye'. The four were held in a widespread crackdown on the ANC by the Swaziland government in the weeks following the signing of the Nkomati Accord.

347 In the months following the Accord, at least five other ANC/MK members were killed in shoot-outs with the Swazi police and there is evidence that South African security personnel assisted in some of the operations. Those killed were Mr Jabulani Ngcobo, Mr Popo Molefe, Mr Sydney Moropa, Mr Elias Khuzwayo (a pseudonym) and Mr Mthunzi Luxomo.

348 Ngcobo was killed in December 1984 after, according to the Swazi police, having shot dead Superintendent Petros Shiba, deputy head of the Swazi security police and an alleged South African agent. Eventually the majority of those held in prisons were deported to other African countries, but a few, like the Bhunya four, were handed over to South Africa.

349 The Bhunya abduction was undertaken by members of the Eastern Transvaal Security Branch. Schalk Visser ordered and participated in the raid, for which he applied for amnesty, as did Christo Deetlefs and Warrant Officer James van Zweel. A fourth policeman – from Piet Retief – also participated but did not apply for amnesty. There is evidence too, of collaboration with certain Swazi police officers, who were paid for their role.

350 The four abductees were held in detention for six months and subjected to intensive interrogation. Their choice was, as Mr Chris Mosiane [AM3768/96] put it in his amnesty application, to “co-operate or simply disappear”; the four eventually agreed to become *askaris* and were moved to Vlakplaas.

351 On 1 June 1985, three members of the Mngomezulu refugee community in southern Swaziland, Mr Jameson Ngoloyi Mngomezulu, Mr David Mkethwa Mngomezulu and Mr Leonard Loghudu Mngomezulu, were abducted and forcibly taken to South Africa. The latter two were detained and tortured for information. After six weeks, they were released and returned to Swaziland.

352 Jameson Mngomezulu was not so fortunate. An experienced MK commander who had been trained in North Africa in the 1960s, the security police believed he was involved in infiltrating MK guerrillas into South Africa. He died as a result of being severely tortured.

353 The abductions were authorised by Eugene de Kock and undertaken by Vlakplaas operatives or *askaris* (including Douw Willemse [AM3721/96], Warrant Officer Gerhardus C Beeslaar [AM5640/97], Almond Nofemela and Corporal Thapelo Mbelo [AM3785/96]) and Captain Paul van Dyk [AM5013/97] and Detective Warrant Officer Johannes Koole [AM3748/96] of the Security Branch. All these applied for amnesty.

354 Warrant Officers ‘Freek’ Pienaar [AM5014/97] and Gerhardus Schoon [AM5006/97] and Gerhardus Beeslaar, all amnesty applicants, were involved in the torture of Jameson Mngomezulu and the blowing up of his body.

355 In June 1986, Mr Sydney Msibi (aka Twala), a former bodyguard of Mr Oliver Tambo and a senior MK intelligence officer, was abducted from a bus stop in Mbabane, Swaziland, and taken to South Africa. Msibi was the handler of an ANC member, Warrant Officer Vincent 'Speedy' Malaza, who had infiltrated the Eastern Transvaal security police. Under detention in Pretoria, Malaza apparently revealed details of his work for the ANC.

356 Msibi's abduction was authorised by amnesty applicant Brigadier Willem Schoon and planned jointly with Schalk Visser. Malaza was taken into Swaziland where he met Msibi under the surveillance of a team led by Eugene de Kock along with amnesty applicants Willie Nortjé, Colonel Daniel Greyling, Captain Joe Coetzer, Steve Bosch, Captain Paul van Dyk, Warrant Officer 'Snor' Vermeulen and Captain Frank McCarter. According to De Kock, Msibi was taken to Vlakplaas and handed over to MI for interrogation. According to the amnesty applications of Greyling and Colonel Gert Visser, he was persuaded to work for the police as a source. De Kock, however, insists he did not reveal any information and did not become an *askari*. What is known is that, in early July 1988, Msibi was shot dead by persons unknown in Soweto.

357 Mr Glory Sedibe (aka Comrade September and Lucas Seme) was abducted from the Mankayane prison in Swaziland and taken to South Africa. According to press reports in Swaziland, three Swazi police officers were paid a total of R150 000 for their assistance in abductions from Swaziland, including those from Bhunya and Mankayane. Sedibe was abducted by a raiding party led by Eugene de Kock and including C section members Steve Bosch, Douw Willemse and Almond Nofemela, as well as Christo Deetlefs and Paul van Dyk of Ermelo and 'Freek' Pienaar and Johannes Koole of Piet Retief – all amnesty applicants. The abduction was authorised by amnesty applicants Willem Schoon and Schalk Visser.

358 Sedibe was an important MK intelligence officer and a senior member of the Transvaal machinery. He strenuously resisted capture but was eventually over-powered and taken to Piet Retief where he was held in detention for some five months before he agreed to co-operate with the police. Assigned initially to Vlakplaas, he was eventually transferred to MI, where he and fellow kidnap victim Chris Mosiane became members of DCC. Sedibe died in mysterious circumstances in 1992, probably by poisoning.

359 On 22 July 1986, an ANC member, Mr Joseph Mothopeng, was abducted from his home in Lesotho by unknown South African Security Branch members from

Ladybrand and killed. Few details are available and no amnesty applications were received for this operation. It is possible Mothopeng may also have been known as Simon Moghetla. This is suggested by DCC member Henri van der Westhuizen in his application for amnesty for an operation in mid-1986 in Lesotho in which an ANC member named by the applicant as Simon Moghetla was abducted and three other unnamed ANC members killed. Van der Westhuizen was at that time engaged in developing targets amongst ANC members in Lesotho. He was attached to the Ladybrand security police. He states that he undertook the target identification for this mission. The attack itself was undertaken by a combined Vlakplaas and Ladybrand security police team. Van der Westhuizen claims he was told the day after the mission that Moghetla had been abducted but that three other ANC members had been killed in a shoot-out.

- 360 The Commission was unable to identify the three or to corroborate Van der Westhuizen's information. Press reports from mid-1986 refer only to an incident in July 1986 in which two Basotho described as ANC sympathisers were killed. One is identified as a medical technologist, Mpho Makete.
- 361 On 15 December 1986, a senior ANC intelligence official, Mr Ismael Ebrahim [CT00940/OUT], was abducted from his home near Mbabane, Swaziland. This operation occurred three days after the abduction from Swaziland of four foreign nationals by Special Forces (see above).
- 362 A member of MK's Natal High Command in the 1960s, Ebrahim had served a lengthy prison sentence for sabotage. On his release, he went into exile and resumed underground activity. No amnesty applications were received for this operation, but information supplied to the Commission by two witnesses suggested that the abduction was carried out by NIS operatives. According to Ebrahim, his abductors were two black men.
- 363 Ebrahim was taken to South Africa and handed over to the Security Branch. He was held for several months, during which time he was interrogated by a team of questioners. In a statement to a hearing in the Netherlands, Ebrahim identified one of his questioners as Major Martin Naudé, head of C2, the intelligence division. He was also subjected to months of solitary confinement.
- 364 Thirteen months after his detention, Ebrahim was brought to trial on a charge of high treason. The presiding judge refused his application for the dismissal of the charges on the grounds of his illegal abduction. Ebrahim was convicted and

sentenced to twenty years. Ebrahim appealed against the right of the South African courts to try him. His appeal was upheld by the Appellate Division in mid-1990, and he was released.

365 In December 1987, three members of the ANC based in Lesotho were abducted and taken to South Africa. They were Ms Joyce Keokanyetswe (Betty) Boom [KZN/JRW/051/BL], Ms Nomasondo Mashiya (along with her child), and Mr Tax Sejamane. Three amnesty applications were submitted to the Commission in regard to these abductions. They are from Colonel Colin Anthony Pakenham Robertshaw [AM7163/97] who was attached at the time to the Security Branch at Ladybrand, and two of his colleagues, Sergeant Antonie Jagga [AM7106/97] and Lesizi Michael Jantjies [AM7107/97]. The identical statements allege that contact was made with Boom in Maseru in 1987, and that she agreed to become a source. A little later, when they learnt that Boom was under suspicion, the group agreed that she should be brought to South Africa in an operation which would be made to seem an abduction.

366 Boom was thus taken to a farm in the Ladybrand district where she allegedly suggested that contact be made with Mashiya, a fellow cell member, with a proposal that she join Boom. Mashiya allegedly agreed, but insisted that she be accompanied by her one-year-old child. Once she had joined Boom, Mashiya agreed to become an informer and asked the police to deliver her child (with an explanatory letter) to her parents in the Vereeniging area. This was done. Soon afterwards, Tax Sejamane allegedly agreed to become an informer. Having established a network of agents, the three were returned to Maseru where they disappeared soon after.

367 This version of events is not accepted either by relatives who gave statements to the Commission or by the ANC. Their view is that the three were forcibly abducted by members of the Ladybrand security police and taken to South Africa, where they were killed and their bodies buried. What is certain is that none of the three has been seen or heard of since they disappeared from Lesotho in 1988.

368 In July and October 1988, two MK operatives in Swaziland, Mr Emmanuel Mzimela (aka Deon Cele) and Ms Phila Portia Ndwandwe (aka MK Zandile and Zandi) were abducted, taken to South Africa and killed when they refused to co-operate with the Security Branch. Their bodies were exhumed by the Commission in 1997. The abduction of Ndwandwe was authorised by then Brigadier (later Major-General) Johannes Albertus Steyn of the Durban Security Branch at the request of Colonels Andy Taylor and Hentie Botha, both of whom participated in the

operation along with Lieutenant Colonels Jacobus Vorster and Sam du Preez, Warrant Officer Laurie Wasserman and some others. All those named have applied for amnesty for this operation.

369 Cele was persuaded by a colleague, Mr Goodwill Sikhakane, to enter a minibus after leaving night classes in Manzini. Unbeknown to him, Sikhakane was at that time negotiating with the Durban Security Branch to return to South Africa as an agent. The Cele abduction was used by the security police to test Sikhakane. Durban Security Branch members Warrant Officer Laurie Wasserman [AM4508/96] and Colonel Hentie Botha were hiding in the minibus. They subsequently over-powered Cele and drove him to a house belonging to the Pietermaritzburg Security Branch, where they allegedly left him. According to Botha's amnesty application, he was eliminated the following day after refusing to become an informant. Both Wasserman and Botha applied for amnesty for this abduction. Sikhakane became an *askari* but was himself eliminated by his Vlakplaas superiors in 1991.

FULLER DETAILS ON THESE THREE KILLINGS ARE CONTAINED ELSEWHERE IN THIS REPORT. BECAUSE THE AMNESTY APPLICATIONS FOR MOST OF THE ABOVE ABDUCTIONS WERE PENDING AT THE TIME OF REPORTING, THE COMMISSION WAS UNABLE TO MAKE FINDINGS ON THEM BEYOND THE FACT THAT EACH INVOLVED A VIOLATION OF THE TERRITORIAL SOVEREIGNTY OF THE COUNTRIES INVOLVED.

## Border/entrainment killings

370 Included here are two cases where the actual killings happened either on the border but not actually in South African territory or where individuals were lured out of South Africa into foreign territory to be killed by South African security forces.

371 According to the amnesty applications of Eastern Transvaal security police officers Gert Visser [AM50002/97] and Schalk Jan Visser [AM 5000/97], an MK member was arrested late in 1981 at the Oshoek border post with Swaziland and taken into South Africa for questioning. Under interrogation, he reportedly revealed the names of his commanders and of planned operations inside South Africa. A plan was then made to abduct these commanders 'George' and 'Brown' (real names George Ndlovu [JB00470/01ERKWA] and Kenneth Nungu), and to bring them to South Africa for questioning. In the course of the attempted abduction, there was a shoot-out a few hundred yards inside Swaziland. The vehicle in which the two were travelling caught fire and the two burnt to death.

372 This operation was undertaken by the SAP's Special Task Force under the command of General AJ Wandrag [AM4363/96], who applied for amnesty for it. Between

eight and twelve members of the Task Force participated in the ambush, including amnesty applicants FJP Nel, Captain Marthinus Strydom, Gert Visser, Schalk Visser, Captain DJ Steenberg and JJ Viktor snr.

373 A member of the ANC machinery who worked under Ndlovu was Ms Nokhuthula Aurelia Dlamini. She operated as a runner-cum-courier between the Swaziland ANC cadres and those in Johannesburg. Dlamini was abducted by the security police outside the Carlton Centre in Johannesburg in 1983 and has never been seen again. Uncorroborated information in the hands of the Commission suggests that Ms Dlamini was held by the security police on a farm near Krugersdorp where she was severely tortured and eventually killed (for more details, see elsewhere in this volume).

374 On 12 February 1989, student activists Portia Shabangu [JB03397/02NPLTM], Thabo Mohale [JB03397/02NPLTM] and Derrick Mashobane (aka Mpho Mashoeng) [JB03397/02NPLTM] were killed by a Vlakplaas squad commanded by Eugene de Kock in an ambush in a forested area near Bhunya in Swaziland. The three were allegedly going to Swaziland, *inter alia* to undergo arms training and to smuggle arms back into the country. The three were told to meet their contact in the Swazi Plaza in Mbabane. The contact turned out to be an *askari* who lured the three to an ambush point in a secluded forest area where they were shot and killed. Approximately ten operatives participated in the ambush, including two *askaris*. Of the operatives, those who applied for amnesty were Sergeant Leon Flores [AM4361/96], De Kock and Captains Riaan Bellingan [AM5283/97] and Petrus Snyders [AM5286/97].

375 According to De Kock, the operation was planned at a meeting attended by himself and C section commander Willem Schoon, General Gerrit Erasmus from Security Branch head office, Colonel Alfred Oosthuizen of the Intelligence Branch (section D) of the security police, who reported directly to General Erasmus, and Captain Willem 'Timol' Coetzee of the SIU, who was charged with monitoring the three until they crossed the border. De Kock, General Erasmus [AM4134/96] and Colonel Oosthuizen [AM4385/96] applied for amnesty for this incident.

376 According to amnesty applicant Leon Flores, this operation was code-named *Cobra* and, according to de Kock, involved the elimination of fifteen to sixteen student leaders of the Congress of South African Students (COSAS) and the South African National Students' Congress (SANSCO).

GIVEN THE FACT THAT THE AMNESTY APPLICATIONS IN REGARD TO ALL OF THESE SO-CALLED ENTRAPMENT KILLINGS WERE PENDING AT THE TIME OF REPORTING, THE COMMISSION WAS

## UNABLE TO MAKE FINDINGS IN TERMS OF INDIVIDUAL ACCOUNTABILITY.

THE COMMISSION FINDS THAT, DURING THE PERIOD 1963-89, THE SADF AND THE SAP PLANNED AND ENGAGED IN A NUMBER OF UNCONVENTIONAL MILITARY OPERATIONS, CROSS-BORDER RAIDS, ABDUCTIONS, ASSASSINATIONS AND ATTACKS ON PEOPLE AND PROPERTY BEYOND THE BORDERS OF SOUTH AFRICA. SUCH ACTIVITIES OF THE SAP AND THE SADF LED TO GROSS VIOLATIONS OF HUMAN RIGHTS ON A WIDE SCALE. THE COMMISSION FINDS THAT SUCH ACTIVITIES OF THE SAP AND SADF CONSTITUTED A SYSTEMATIC PATTERN OF ABUSE WHICH ENTAILED DELIBERATE PLANNING ON THE PART OF THE FORMER CABINET, THE SSC AND THE LEADERSHIP OF THE SAP AND SADF. THE COMMISSION FINDS THESE INSTITUTIONS AND THEIR MEMBERS ACCOUNTABLE FOR THE AFORESAID GROSS VIOLATIONS OF HUMAN RIGHTS.

## ■ SPECIAL OPERATIONS OF A SENSITIVE OR COVERT NATURE: THE CCB

Die CCB is die benaming soos ons vanoggend hier sit, van 'n bordjie op 'n tafel, in plaas van om daar te sê Spesiale Operasies van covert aard, staan daar Burgerlike Samewerkingsburo op 'n gewone oggendkonferensie van spesiale magte. Die CCB het net binne spesiale magte gefunksioneer. *The CCB is a designation (developed) at a regular morning conference of Special Forces, just as we sitting here today. Like a sideplate on a table; instead of Special Operations of a covert nature, there emerged the CCB. The CCB functioned only within Special Forces. (Colonel Pieter Johan (Joe) Verster, testimony to the Commission, 18 August 1997.)*

- 377 The Commission's investigations of the CCB were hampered by the fact that no applications for amnesty were received from CCB members in regard to the organisation's external operations. CCB operatives summonsed to appear before the Commission all, with one exception, refused to discuss its external activities. Another difficulty was the fact that the one state commission (Harms) set up to investigate the CCB was worthless. The Harms Commission focused only on internal operations while the CCB was primarily an externally-oriented organisation. Only the surface of CCB activities was, therefore, scratched.
- 378 Details have been given elsewhere in this chapter of the SADF's development of specialised units. The earliest was formed in 1961. Later in the 1960s, reconnaissance commandos were established specialising in air, sea and land operations that could not be undertaken by conventional forces. In the 1970s, these developed into reconnaissance (Recce) regiments of which there were eventually four, operating under the rubric of the general officer commanding (GOC) Special Forces, a post formally established in October 1974.

379 The four Recce regiments were numbered 1, 2, 4 and 5. For a brief period there was also a Recce 3 but that name seems to have given way to Delta 40 or D40. This unit was formed in response to the independence of Zimbabwe and the large numbers of experienced Rhodesian counter-insurgency personnel who were recruited into the South African security network through *Operation Winter*. This project was headed by the then GOC Special Forces, Major General FW Loots. The other development was a perceived need on the part of South Africa's military strategists for Special Forces to develop a covert arm.

380 D40 was headed by ex-Rhodesian Mr Garth Barrett and was comprised almost exclusively of other ex-compatriots. It was members of this unit that undertook the Matola Raid in 1981, in which they lost three members. In 1981, D40's name changed to Barnacle. In about 1983, it appears that many Rhodesians, including Barrett, left the SADF. Nonetheless, a component of Barnacle continued to operate within Zimbabwe right up until the late 1980s.

381 In his amnesty application, Colonel PJ 'Joe' Verster stated that, in 1986, certain structures within the security system were reorganised. The impetus came from the retiring chief of the SADF, General Constand Viljoen. From 1975–81, Verster had been officer commanding of 1 Recce. In 1981, he was assigned to Special Forces' headquarters ('Speskop') initially as staff officer (later senior staff officer) for Special Operations – effectively staff officer to the GOC of Special Forces. In 1986, a new post of senior staff officer: Covert Operations was created and assumed by Verster. He still remained directly accountable to the GOC but now for a different kind of special operation. In his testimony, Verster described his new assignment as "developing a covert force to counter the covert operations of the ANC".<sup>24</sup>

382 The above details are corroborated in the amnesty application of the GOC Special Forces (November 1985–January 1989), General AJM 'Joep' Joubert, where he states that:

*In the mid- to late eighties, one of the major goals of national security policy and strategy was to bring the revolutionary organisation and mobilisation by the liberation movements, particularly the ANC, to a halt ... by this time it was also clear that the ANC was not going to be stopped by normal conventional methods and that revolutionary methods would have to be used. As the institution for external operations, Special Forces would also have to intensify its external operations ... since the necessity for unconventional and revolution-*

<sup>24</sup> Translation of section 29 hearing transcript, p. 13.

*ary action was already clear, it was also clear that clandestine and covert operations would have to take place internally, for which Special Forces members would be used. It was more or less then that the name CCB was adopted as a replacement for D40 or Barnacle. The revolutionary and covert nature of the plan, amongst other things, involved:*

- a) *that ANC leaders and people who substantially contributed to the struggle would be eliminated;*
- b) *that ANC facilities and support services would be destroyed;*
- c) *activists, sympathisers, fighters and people who supported them would also be eliminated;*

383 The CCB was not therefore planned as an organisation separate from the SADF's institutional framework. Nor was it any kind of 'third force' in the sense of a separate and autonomous entity. What it represented was an additional capacity on the part of Special Forces in its war against 'the enemy'. With the established Special Forces operating as they had for some years – largely in a cross-border capacity with, where necessary, the public backing and acknowledgement of the SADF hierarchy and government – they were now to be supplemented by a secret, apparently civilian strike force, which neither the government nor the SADF would acknowledge publicly.

384 Thus the CCB represented a new method of state-directed warfare in the South African context, part of Special Forces but structured and functioning in a way intended to make it seem it was not.

385 Those who were recruited into the CCB from the ranks of the SADF or police never regarded themselves as operating from outside the rubric of the state security system; nor did most probably know that they were members of an entity called the CCB. It was not a term used outside of the planning and senior administrative level. It was a "*posbenaming*", as Verster put it in his amnesty application. He stated "*omdat die BG Spesiale Magte om sy konferensietafel nie wou praat van die Kouverte Operasionele Staf Offisier nie is die benaming Burgerlike Samewerkings Buro geskep*" (because the above-mentioned special forces did not want to speak about the covert operations around the conference table, the name Civil Co-operation Bureau was adopted). The quote at the head of this section reflects that arrangement.

386 Though a part of the Special Forces' family, the CCB represented a radically different direction on the part of the SADF. It was in that sense something new, although not unique in an international context. It was an application to the Southern Africa theatre of a form of operational intelligence with a precedent in the wider world of espionage and covert operations.

387 In testimony to the Commission, Mr Christoffel Nel, who was the CCB's head of intelligence, explained that the CCB was a long-term project which required at least a ten-year gestation period in which to develop an effective covert capacity. The goal was to create a global subterranean network of companies that would be both legitimate businesses as well as fronts for operational intelligence. The companies would be headed by businessmen who were well integrated into their communities but remained skilled covert operatives able both to run successful firms and to collect intelligence and act on it where instructed.

388 In a discussion with a Commission official, Joe Verster confirmed the long-term nature of the CCB project. He described the goal as setting up a "first line of defence" outside the country. He gave the example of ships carrying weapons to South Africa's enemies and argued that it was counter-productive to wait for those weapons to reach their destination rather than develop a capacity to sink those ships before they left for those destinations. For that, an operational intelligence capacity was required.

389 The intention was that the CCB would be fully functional sometime in the mid-1990s. Based on the experience of other intelligence agencies, it was recognised that it would take that long for a skilled soldier to transform her/himself into a career businessperson, well integrated into a new working environment. Thus it was that the priorities of those selected for membership of the CCB included training in business practice and the development of what was known as their 'blue-line cover', that is, a proper business which would provide them with civilian cover. The escalating nature of internal unrest in the late 1980s, the needs generated by the declarations of the states of emergency, and the desire to prevent a SWAPO victory in South West Africa derailed the timetable, and the CCB was pulled into the counter-insurgency effort before it was properly ready and set up.

390 As stated above, the decision to develop the civilian component of Special Forces was made in 1986. As part of their cover and the plausible deniability framework, Verster and those selected to constitute the 'aware' strata of the organisation were required formally to resign their commissions in the SADF.

Verster did so in late 1986 but was immediately re-hired in terms of a contract with all pension and other benefits. Commandant Charl Naudé did the same, as no doubt did the other core members of the CCB, such as Wouter Basson (aka Christo Britz), Major Lafras Luitingh, Dawid Fourie (aka Heine Muller) and Mr Theuns Kruger (aka Jaco Black). As a CCB operative, Verster assumed the administrative names of Rick van Staden and Dave Martin.

391 Despite the 'resignations' of the CCB's top leadership, they were still able to call on the resources of both Special Forces and MI. These included:

- a The chemical and biological warfare (CBW) capacity of the South African Medical Services (SAMS). Christo Nel testified that on a number of occasions he, in his capacity as the CCB and MI link to the CBW programme, submitted requests for various toxic substances.
- b The explosive and other technological resources of the Electronic Magnetic Logistical Component (EMLC). This was a division of the SADF which developed specialised weapons in the form of letter, car and briefcase bombs, as well as explosive gadgets like umbrellas and radios. Colonel 'Hekkies' van Heerden was the technical specialist at Special Forces' headquarters, and the link to the EMLC.
- c The intelligence collected by the DCC and particularly its projects section. This latter was, in actuality, its target-development programme. It was started in 1986 by Christo Nel, who moved across to the CCB in 1988.

392 Though inaugurated in 1986, it was not until 1988 that the organisation became fully functional. While the CCB had originally been conceived of as a structure for external operations, by 1988 an internal component had been added. This development, according to one witness before the Commission, was imposed upon a reluctant Joe Verster. However, in a discussion with a Commission official, Verster did not express such a view about the internal section (region 6), although he did state that some members were forced on him. He stated that region 6, which did not become fully functional until January 1989, was set up as an extension of the external regions so that if, for example, an MK member was being tracked through the region, the target could be handed over to another section of the organisation once s/he crossed the border into South Africa. Verster explained that the membership of this region was drawn from the police (in contrast to the military background of the members of other regions) because the internal

situation was the primary responsibility of the police. The SADF functioned only in a support capacity.

393 Those who were recruited into the CCB from the ranks of the SADF or police did not regard themselves as operating outside the rubric of the state security system. As mentioned, they were probably unaware that they were members of an entity called the CCB, as it was not a term used outside of the planning and senior administrative level.

394 The CCB was structured along regional lines. There were ten regions in all, eight geographic and two organisational. These were Botswana (1); Mozambique and Swaziland (2); Lesotho (3); Angola, Zambia and Tanzania (4); International/Europe (5); South Africa (6); Zimbabwe (7); South West Africa (8); Intelligence (9); and Finance and Administration (10).

395 Heading this structure was a management board chaired by the GOC Special Forces – Major General Joep Joubert (1985–89) followed by Major General Eddie Webb from the beginning of 1989. Other board members were the managing director (Verster), his deputy (Dawid Fourie), a regional co-ordinator (Wouter Basson), finance (Theuns Kruger) and administrative or production manager (Lafras Luitingh). Others named as members of the CCB's inner core were its intelligence chief, Christoffel Nel, and ex-Special Forces operatives Commandants Charl Naudé and Corrie Meerholtz.

396 While this board may have supervised the CCB's operations, it had no policy autonomy separate from the overall command structure of the SADF. Verster stressed that the Board chair "could make certain decisions on his own within his written mandate from the chief of the defence force, but he had to clear it in terms of the hierarchy above him ... He had no mandate to do as he pleased." He confirmed that this liaison with the chief of the SADF included consultation with the SADF's general staff.

397 The Commission endeavoured, with limited success, to uncover the identity of those involved at the regional level. It can report that in region 1 (Botswana) the regional manager up to 1988 was Commandant Charl Naudé and thereafter Dawid Fourie, while Christo Nel (aka Derek Louw) handled the intelligence function. In region 2 (Mozambique and Swaziland) the manager was Commandant Corrie Meerholtz (aka Kerneels Koekemoer) until the end of 1988, when he left to take charge of 5 Recce. He was replaced by the operational co-ordinator, Captain Pieter Botes. Fourie was also the manager in region 3 (Lesotho), while the intelligence

function was performed by Peter Stanton, one of the few remaining ex-Rhodesians from the D40 and Barnacle eras.

398 Dawid Fourie was also responsible for region 4 (Angola, Zambia and Tanzania), taking it over in 1988 from Meerholtz. Christo Nel handled the intelligence function while Ian Strange (aka Rodney) was also involved in this region. In terms of region 5 (European and International), Joseph Niemoller jr. appears to have been co-ordinator until 1987, when he was suddenly withdrawn following the arrest of a number of individuals living in England on charges of plotting to kill ANC leaders. The intelligence function was performed by Eeben Barlow. Various CCB members co-ordinated region 7 (Zimbabwe) including Wouter Basson and Lafras Luitingh. Others involved in sub-management were Ferdi Barnard (for a brief period) and Alan Trowsdale. Region 8 (South West Africa) was headed by Roelf van Heerden (aka Roelf van der Westhuizen).

399 Joe Verster estimated that the CCB undertook between 170 and 200 projects. These included administrative arrangements like the setting up of a blue-line company or a pension plan. As there were some one hundred 'aware' members and therefore approximately one hundred businesses, at least half of all projects were not directly linked to offensive operations.

400 There were two types of members in the CCB – aware (*'die bewustelike buitekring'*) and unaware (*'die onbewustelik buitekring'*). The former were recruited from within the ranks of the security organs, mainly the SADF, and were required to set up blue-line covers. They were all required formally to resign from the SADF, or whoever their employer was, and sign a contract of employment with what was known as *'Die Organisasie'*. They operated from a part of Special Forces headquarters known as *'die Gat'*.

401 These aware members in turn hired 'employees' to work for them. These were the unaware members. In his appearance before the Commission, Joe Verster estimated that there were about one hundred aware members and some 150 unaware members.

402 Christo Nel described the second group as consisting of two types – those who thought they were connected to the government but were unsure of which part, and others who were totally ignorant. He went on, however, to suggest that there was still a third category – "international criminals ... people who were usable for the type of work that was planned"<sup>25</sup>. Donald Acheson (see the Lubowski

<sup>25</sup> Transcript of section 29 hearing, 18 May 1998, p. 28.

case above), Peaches Gordon and Isgak Hardien, internal region 6 unaware operatives, were perhaps some of those he had in mind.

- 403 Region 6 was headed by the one-time head of the Brixton Murder and Robbery Unit (BMRU), Brigadier Daniel 'Staal' Burger. It became fully operational on 1 January 1989. Its inner circle was comprised of other former BMRU members who were assigned to various sub-regions of South Africa. They were Abram 'Slang' van Zyl (western Cape), Calla Botha (Transvaal) and 'Chappies' Maree (Natal). Another region 6 member, after his re-deployment from Zimbabwe, was Ferdi Barnard. Region 6 operated under the designation of *Project Choice*.
- 404 The objective of the CCB was "the maximal disruption of the enemy". A CCB planning document described disruption as having five dimensions: death, infiltration, bribery, compromise or blackmail, and destruction. In his testimony to the Commission, Christo Nel stated that, when he underwent induction training into the CCB in 1988, this was not the order of priorities. Killing was a goal, but the emphasis, he argued, was on bringing about the death of an opponent by indirect means rather by the organisation's assassins themselves.
- 405 Nonetheless, the CCB did kill some opponents of the government and tried to kill others. There is evidence that the CCB was involved in the killings of Mr David Webster [JB00218/01GTSOW], Mr Anton Lubowski, Ms Dulcie September [CT03027/OUT], Mr Jacob 'Boy' Molekwa and Mr Matsela Polokela in Botswana, and Ms Tsitsi Chiliza [JBO5088/02PS] in Harare. (This last was an operation that went wrong: the intended target was Mr Jacob Zuma in Maputo.)
- 406 It also attempted, or conspired, to kill others. Amnesty applications have been filed by CCB operatives Joe Verster, Wouter Basson, 'Staal' Burger and 'Slang' van Zyl for the plots to kill Mr Dullah Omar and Mr Gavin Evans.
- 407 Other information available to the Commission has linked the CCB to the killings of Ms Florence Ribeiro, Dr Fabian Ribeiro [JB03488/02PS] and Mr Piet Ntuli [JB02306/01MPMOU], the attempted killings of Mr Godfrey Motsepe [JB00606/02/PS] in Brussels, Mr Jeremy Brickhill in Harare, Mr Albie Sachs in Maputo [KZN/JD/001/AM], Comrade Che Ogara (MK *nom-de-guerre*) in Botswana and Mr Frank Chikane [JB03725/01GTSOW]; the plans to kill Mr Joe Slovo in London in the mid-1980s, Mr Oliver Tambo in Harare in 1987, Ms Gwen Lister, Mr Daniel Tjongarero and Mr Hidipo Hamutenya in South West Africa, as well as Mr Jay Naidoo, Mr Roland White and Mr Kwenza Mhlaba in South Africa.

408 The CCB also participated in elimination missions with other security force elements, such as the security police and the more overt wing of Special Forces. One such joint mission was the attack on the ANC transit house in Phiring, Botswana in 1988 in which MK regional commander Patrick Vundla was killed.

409 Another operation in Botswana in 1988 went badly wrong. On 21 June 1988, a CCB group inside Botswana was intercepted by a Botswana police patrol and a shoot-out ensued. Two CCB members, Mr Johannes Basson and Mr Theodore Hermansen, were captured, and sentenced to ten years' imprisonment in December 1988.

410 A major CCB operation was undertaken in South West Africa in 1989. As part of the South African government's campaign against SWAPO in the run-up to the December 1989 election in South West Africa, every aware member was transferred from their region to shore up the work of the existing South West African CCB set-up. According to Christo Nel, "we were told, 'Double up your production and you will get a production bonus'<sup>26</sup>". It was in this context that Mr Anton Lubowski was killed.

411 As is evident from the above, one aspect of the CCB's *modus operandi* was the use of cash as an incentive to 'produce'. Thus, like other hit-squad or counter-insurgency units such as Koevoet and C10, CCB members were provided with a positive inducement to undertake actions which could, and often did, result in a gross violation of another individual's rights.

412 As stated above, however, killing was not the sum of the CCB's activities. A great deal of time and effort were expended on disinformation campaigns designed to discredit opposition figures and sow confusion in the ranks. At the time that the CCB was being planned, the SADF also launched its Stratcom (Strategic Communications) programme as a vehicle for the deliberate spreading of disinformation about targets in the hope that this would at least create a sense of suspicion about them, if not result in their elimination.

413 The CCB was also heavily involved in campaigns of infrastructural disruption through sabotage. Targets of such operations were bridges, railway lines, oil containers, strategic military targets, offices and houses, especially those used to accommodate guerrillas in neighbouring states. Christo Nel told the Commission of one such operation in Botswana, in which Colonel Hekkies van Heerden of the ELMC placed a car bomb in a minibus and parked it in front of the house it was intended to destroy. The bomb was so powerful that it demolished three homes.

26 *Ibid.*, pp. 30–1.

414 Another core activity was intelligence collection for operational purposes. There seem to have been only three experienced intelligence operatives amongst the aware members – Nel, Pete Stanton and Eeben Barlow. The CCB could only collect intelligence for specific operational purposes. Again according to Nel, one of its successful projects in this regard was a communications company set up in Maseru by the CCB and staffed by some black Special Forces operators. This firm sold and installed communications (telephone, fax, telex etc.) equipment in offices. One such contract was to a facility used by the ANC, which meant that all calls to and from this office were monitored by the CCB. The information so collected was used against MK structures particularly in the western Cape.

415 Another CCB concern was sanctions busting with a view to acquiring arms and technology. According to testimony in a court trial in Johannesburg in 1990, region 6 member Leon 'Chappies' Maree conceded that part of his CCB brief was to operate as a covert agent for the import of high-tech military equipment. He testified that he had undertaken a four-month trip to six European countries in early 1990, brokering 'business' deals for the acquisition of war materials for the SADF. Other information available to the Commission indicates that sanctions-busting activities formed an important component of some members' activities.

416 The CCB engaged in a range of other miscellaneous activities, one of which was *Project Apie*, involving the nailing of a monkey foetus to a tree in the garden of Archbishop Tutu's residence. Another was *Project Crawler*, involving the purchase of a so-called spy ship, the *Margit Rye*, from Denmark for use in information-gathering activities on South Africa's enemies. It was purchased through a company headed by a CCB member, André Groenewald (aka Kobus Pienaar).

417 *Project Direksie* was an attempt to free South African agents Michael Smith, Kevin Woods, Barry Bawden, Philip Conjwayo and Rory Macguire from Chikarubi prison in Harare on the day they were due to appear in court. The plan was aborted at the last minute when the South Africans became aware that the Zimbabweans had advance information on the attempt. One of those involved in the escape attempt, Mr Denis Beahan, failed to get the message and was arrested and later sentenced to a long term of imprisonment.

418 *Projects Imperial, Maagd and Maxi* each involved the collection of information in other African countries.

THE COMMISSION FINDS THAT THE CCB WAS A CREATION OF THE SADF AND AN INTEGRAL PART OF SOUTH AFRICA'S COUNTER-INSURGENCY SYSTEM WHICH, IN THE COURSE OF ITS OPERA-

TIONS, PERPETRATED GROSS VIOLATIONS OF HUMAN RIGHTS, INCLUDING KILLINGS, AGAINST BOTH SOUTH AFRICAN AND NON-SOUTH AFRICAN CITIZENS. THE COMMISSION FINDS THAT THE ACTIVITIES OF THE CCB CONSTITUTED A SYSTEMATIC PATTERN OF ABUSE WHICH ENTAILED DELIBERATE PLANNING ON THE PART OF THE LEADERSHIP OF THE CCB AND THE SADF. THE COMMISSION FINDS THESE INSTITUTIONS AND THEIR MEMBERS ACCOUNTABLE FOR THE AFORESAID GROSS VIOLATIONS OF HUMAN RIGHTS.

## ■ CROSS-BORDER MILITARY OPERATIONS/RAIDS

419 Several cross-border operations undertaken by the SADF were publicly acknowledged at the time by the South African government.

420 In its first submission to the Commission, the SANDF provided information on external operations targeted at what it described as "ANC and PAC bases and facilities". This list is by no means comprehensive in that it does not include operations undertaken in Angola or against SWAPO facilities in Zambia. The SANDF does not explain these omissions. Those it lists are the following:

- a *Operation Beanbag*: an attack on the Matola area of Maputo, Mozambique on 30 January 1981;
- b an attack on "ANC facilities" in Maseru, Lesotho on 9 December 1982;
- c *Operation Skerwe* (fragments, shrapnel): an attack on "ANC facilities" in the Matola suburb of Mozambique on 23 May 1983;
- d an attack on an "ANC planning facility" in Maputo, Mozambique, on 17 October 1983;
- e *Operation Plecksy*: an attack on alleged ANC residences and offices in Gaborone, Botswana on 14 June 1985;
- f *Operation Leo*: co-ordinated SAAF and Special Forces attacks on alleged ANC facilities in Botswana, Zimbabwe and Zambia on 19 May 1986;
- g an attack on an "ANC transit facility" in Phiring, near Gaborone, Botswana on 28 March 1988.

421 Also listed is an attack on a 'PAC transit facility' in Umtata, Transkei on 17 October 1993. This operation is discussed elsewhere in this volume.

422 Guidelines for cross-border operations were adopted by the SSC in 1979, and amended in 1985. Most of the raids listed above fell into a category of planned (*oorwoë*) operations which, between 1979 and 1985, required the assent of the SSC. In this regard, the explanation presented in the SANDF submission is misleading. It suggests that the matter rested in the hands of “the Chairman of the SSC for his decision, in consultation with those members of the SSC he decided to involve”. This situation applied only from 1985, when the 1979 guidelines were amended.

423 The first Matola raid of January 1981 was planned by section A of the security police, headed by Colonel (later General) Jac Buchner and assisted by Major (later Brigadier) Callie Steijn of MI. Much of their intelligence was derived from interrogated detainees. One of these was Mr Steven Mashamba, who became an *askari*.

424 Twenty lives were lost in this raid, in which three houses were attacked and largely destroyed. They included Mr José Ramos, a Portuguese citizen killed at a road-block, three of the attackers – Sergeants Robert Hutchinson and Ian Suttil and Lieutenant Corporal JK Park, all Rhodesians – and sixteen South Africans. Among these were a number of senior MK operatives and members of the elite Special Operations unit, including the commander of the first attack on Sasol, Mr Motso Mokgabundi. The others who died (all males) were Thabang Bookalane, Mandla Daka, Themba Dimba, Mduduzi Gama, William Khanyile, Vikeliswe Khumalo, Mankazana Levinson, Bhekumuzi Magubane, Solomon Mahutso, Daniel Molikisi, Steven Ngcobo, Vusumuzi Nwenya, Krishna Rabilall, Mfanafuthi Radebe, and Sinzino Skweyiya. In addition, as noted earlier, two South Africans and one Mozambican were abducted in the raid.

425 The SSC minutes contain no prior authorisation for this raid. In the minutes of the first meeting after the raid, on 2 February 1981, the chair congratulated the defence force on the success of the operation.

426 The same planning team of Buchner and Steijn and Special Forces commandos was responsible for the raid on Maseru on 9 December 1982. The midnight attack targeted a number of houses and a block of flats in Maseru and resulted in the deaths of forty-two people . Of these, thirty were South African and twelve Basotho citizens. Four of the SADF attackers were wounded in the operation. Amongst the South African casualties were the ANC’s chief representative in Lesotho, Mr Zola Nqini, and three members of the Marwanquana family – Alfred (imprisoned

on Robben Island in the 1960s for fifteen years) and two of his teenage children, Mzukisi and Thandiswa. Another ex-Robben Islander, Mr Phakamile Mpungoshe, was killed in the same household. Two Basotho families also lost three family members. They were Ms Anna Hlalele and Mr Motlasi Hlalele and Motlasi's seventeen-year old brother, Pondo, and Mr Sefata and Ms Mateboho Jafeta and their four-year old son, Teboho.

427 Another South African victim was Mr Jobo Titus who had been in Lesotho for only one day after serving an eighteen-year sentence on Robben Island. Another ex-Robben Island prisoner to die was Mr Jackson Trom. After serving a six-year sentence for membership of a banned organisation, Trom had been banished to a remote area of the Transkei. After ten years, he and his family fled to Lesotho. Another of those killed was an active SACP member, Mr Gene Gugushe (aka Stephen Seroto), a refugee from the Soweto uprising.

428 According to General Viljoen, chief of the SADF, five women and two children were killed in the raid. In fact, seven women died. Six of those killed were school-going teenagers. In his statement, General Viljoen described the operation as a "successful raid" on twelve ANC targets which he said were "planning and control headquarters for ANC action against South Africa, Transkei and Ciskei and were used as a springboard for terrorist action". Expressing regret for the fact that "the innocent also had to suffer because they were housed by terrorists to discourage action against them", he claimed that the ANC deliberately located their offices "in civilian houses to complicate action against them". This statement was either an attempt to explain or justify the fact of civilian casualties or reflected an ignorance of the ways in which modern guerrilla wars were fought.

429 In addition to those named above, the following died in this raid (males unless otherwise stated): Toto Biza, Ngipe Bantwini, Lizethile Dyani, Mzwandile Fazzie, Zwelindaba Gova, Samson Kana, Sibusiso Khuzwayo, Ms Mapuleng Mafisa, Ngubekhaya Maqhekeza, Lepota Marayi, Ms Florence Mateseliso, Themba Mazibuko, Bongani Mbuso, Sipho Mchunu, Liqwa Mdlankomo, Michael Mlenze, Dumisani Mthandela, Mark Mvala, Cecil Ngxito, Sipho Notana, Faku Ntoyi, Ms Matumo Rabelitso, Ms Mapoloko Sehlabaka, Matikwane Seroto, Peter T'senoli, Naphtali Tsimile, Mzwanele Vasi and Vuyani Ziba.

430 There is no reference to the Maseru raid in the SSC minutes, either before or after it took place.

431 The SADF's second raid on Maputo – *Operation Skerwe* – on 23 May 1983 was launched in retaliation for the ANC's Church Street bombing in Pretoria three days earlier. The report below is derived from material in MI files (DMI MI/309/2 and MI/204/2/2/9).

432 According to the files, the targets comprised a missile site, command post, training centre, logistical base, urban and logistical headquarters. If they were such, they were located in houses described in the files as Gebuza's (Siphewe Nyanda) house, September's (Glory Sebide) house, Zola's house and Mlangeni's house. Another target appears to have been a state-owned oil refinery.

433 Despite the public pronouncements about the success of the raid, a reading of the file shows that it was a disaster. Though the Minister of Defence, General Malan, announced that six ANC bases and a missile battery had been destroyed and forty-one ANC "terrorists" killed, this was a complete fiction. None of the intended targets were hit. Instead, the homes of Mozambican citizens were attacked, as was the crèche of a jam and fruit juice factory. In these hits, five Mozambican civilians – one a child – were killed, along with one South African refugee, Mr Vuyo Ntete (aka Fred Naledi).

434 In the initial damage report in the files it is stated that target identification was erroneous and that civilians were killed and private property damaged. A longer communication dated 14 June 1983 from the chief of the SADF (Lieutenant General Viljoen) to the chief of the army (Lieutenant General Geldenhuys) describes the final result of the attack as:

*not merely a disappointment but a shock ... our image and credibility with government and abroad has been seriously damaged. This operation is precisely what I referred to after my visits to 32 Battalion near Cuvelai (Angola). We accept poor results far too easily without analysing why they are poor and taking steps to remedy the situation. If we were to analyse our operational effectiveness and to make the results public we would be ashamed.*

435 The SSC minutes reveal that this raid was discussed at its meeting on the day of the raid and was, according to the Minister of Defence and chief of the SADF, undertaken after consultations with the chairperson. The chairperson explained that it had not been possible to call the whole council together for consultation.

436 There was a further raid on Maputo on 17 October 1983. Few details are available on this raid, other than that it was undertaken by SADF Special Forces and that the target was the ANC office located in a block of flats in central Maputo. The office was damaged in a bomb blast and five people were injured.

437 While again there is no prior authorisation for this raid in the SSC minutes, General Malan provided the SSC meeting of 17 October 1983 with a report on what he described as a successful raid on the ANC's headquarters in Maputo.

438 In a raid not listed in the SANDF submission, a group of SADF commandos from 5 Recce attacked four homes in the Polana area of Maputo in May 1988. This was a combined forces operation. The attackers entered the city in vehicles which they blew up on the beach before being evacuated by sea. Like the raid in May five years earlier, this raid seems also to have suffered from faulty intelligence. Three Mozambicans – all wrong targets – were killed.

439 Two ANC houses were attacked, but both were unoccupied at the time, with the result that the only fatality was a Mozambican security guard, Mr Joao Chavane. The raiders also entered a block of flats looking for the apartment used by a co-operant (expatriate) who worked closely with the ANC. Finding that flat empty, the raiders entered the one opposite, which was occupied by Ms Suzana de Souza, sister-in-law of Mozambique's Minister of Culture, and her husband, Mr Antonio Pateguana, brother-in-law of Mozambique's military chief of staff, and their two young children, aged three and five. The two adults were taken out onto the balcony where the raiders checked with other members of the party below in a courtyard as to whether they were the correct targets. The party below gave a positive signal and the two were then shot in front of the two children, who were left with the corpses. Other members of the raiding party attacked a suspected ANC house which turned out to be occupied by a Tanzanian. He returned fire on the attackers and avoided injury.

440 On 14 June 1985, twelve people were killed in *Operation Plecksy*, an attack on houses and offices in Gaborone, Botswana. Eight of the dead were South Africans. The others were a Somali citizen, a Basotho child and two citizens of Botswana. This is the only raid for which the Commission received amnesty applications and for which there is clear evidence of state authorisation, albeit not in the form of an SSC resolution.

441 General Albertus Steyn (a colonel at the time of the attack) applied for amnesty for his planning and intelligence-collection role in regard to the operation. At the time he was co-ordinator of the Western Transvaal Security Branch based at Zeerust. He states that along with Brigadier Wickus Loots and Special Forces Commandant Charl Naudé, he briefed Generals Johan Coetze (SAP commissioner), AJ 'Kat' Liebenberg (head of Special Forces) and Constand Viljoen (SADF chief) on the raid "on more than one occasion". Brigadier Loots and Colonel Philip Rudolph Crouse of the Zeerust Security Branch also applied for amnesty for their intelligence role.

442 In an amnesty application, a member of the Soweto Security Branch, Colonel Lodewyk de Jager, said that his unit was invited to an information-sharing and planning meeting for the raid at Special Forces headquarters. He stated that his unit had in the past attended similar sessions on Mozambique and Lesotho, the site of other cross-border raids staged up to this time.

443 Represented at this meeting were head office and the Johannesburg and Western Transvaal sections of the Security Branch, National and Military Intelligence and Special Forces. The raid itself was launched from Nietverdiend and led by the most senior officers of 5 Recce. Others present at the administrative command centre at Nietverdiend included Craig Williamson and members of the Soweto Security Branch. Other members of the Soweto security police who applied for amnesty for their involvement in the planning process are Anton Pretorius, Johannes Meyer and Willem 'Timol' Coetze.

444 In his amnesty application, General Johan Coetze of the SAP stated that the "trigger for the raid was the attack on the house in Cape Town of a Deputy Minister of the House of Representatives". He also states that the Minister of Foreign Affairs, Mr Pik Botha, was absent from the SSC meeting at which the raid was discussed. General Coetze was instructed to contact Mr Botha to inform him of the pending raid and to get his reaction. President Botha had signed the authorisation order but had done so subject to the Foreign Minister's approval. The task of finding Pik Botha was given to Craig Williamson and General Stadtler of the SAP. In evidence to the Commission, Coetze stated that Mr Botha read the order and approved it by signing it.

445 The raid was not a success either in military or public relations terms. According to the amnesty application of Anton Pretorius, so-called 'deep cover' agents of the Soweto Intelligence Unit had identified four primary targets as those "responsible

for planning and execution of terror onslaught". They were Mr Tim Williams, Mr Riaz Saloojee (aka Calvin Khan), Mr Patrick Ricketts and Mr Christian Pepani (aka Jeff). None were hit. After the raid, according to Pretorius, three of these deep-cover agents – identified only as R103, RS 276 and RS 283 – were recalled to Lusaka where one was said to have been shot almost on arrival while the other two (including at least one woman) were tortured and killed at Quatro camp.

446 Few, if any, of the ANC casualties seem to have been senior military figures, although in the amnesty application of Jan Anton Nieuwoudt he states that he targeted Mr George Pahle. He was killed along with his wife, Ms Lindiwe Pahle. The other South Africans killed were a prominent artist, Mr Thami Mnyele, from whose home the attackers stole a number of paintings; Mr Mike Hamlyn, a draft resister who had just graduated from the University of Botswana with a first-class degree in mathematics; a schoolteacher, Mr Duke Machobane, who was killed along with his six-year-old old nephew Peter Mofoka, a Basotho citizen visiting him at the time; Mr Basil Zondi , a seventy-one-year-old refugee and neighbour of one of the missed targets, Mr Tim Williams; Mr Joseph Malaza and Mr Dick Mtsweni. Among the non-nationals killed were a Somalian, Mr Ahmed Geer, whose Dutch wife, pregnant at the time, was seriously injured, and two young Batswana women, Ms Gladys Kesupile and Ms Euginia Kobole. Two other Batswana were wounded at a roadblock.

447 So negative was the general reaction to the raid that an elaborate propaganda exercise had to be mounted to justify the operation. This was orchestrated by Craig Williamson and included the planting of stories in newspapers like *The Citizen* and *Sunday Times* under such headlines as "The Guns of Gaborone". In a discussion with the Commission, Eugene de Kock stated that some of the weapons displayed as captured in the raid were in fact borrowed from him by Williamson.

448 On 19 May 1986, as part of *Operation Leo*, simultaneous attacks were launched on three Commonwealth capitals, Harare, Lusaka and Gaborone. While the SADF claimed the attacks were in retaliation for recent MK attacks (launched from Mozambique and Swaziland) on the Sasol II facility at Secunda, it was much more likely to have been connected to the mission of the Commonwealth Secretariat's Eminent Person's Group. According to the SANDF submission, the targets were an ANC operational and transit facility in Gaborone, an office and house in Harare and unspecified ANC targets fifteen kilometres south-west of Lusaka, which were bombed by the Air Force. In these strikes, no South Africans were killed; a Batswana, a South West African and a Zambian citizen were killed and approximately twenty people injured.

449 In the Botswana leg of the raid, Special Forces commandos under Commandant Corrie Meerholtz launched a helicopter-borne attack on a house in Gaborone located close to the Botswana Defence Force's (BDF) barracks, where a prominent local footballer, Mr Jabulani Masila, was killed. Three members of the BDF were injured. Masila was another case of mistaken identity. The intended target was Mr Ernest Pule, a member of the ANC's Special Operations unit.

450 The Harare attacks, on the ANC office in Angwa Street and a house in the suburb of Ashdown Park, were the work of a group of Special Forces commandos aided by Zimbabwean agents. Their role was to provide support for the commandos who were flown in and out of the country by helicopter. The house attacked was the same one occupied by Mr Joe Gqabi when he was killed five years earlier.

451 A feature of this raid is that Zimbabwean security forces appear to have had advance warning of it and the three occupants of the house (a South African couple and a Zimbabwean) were fetched from the house by security force members. It was therefore empty at the time of the attack. However, no attempt was made to stop or apprehend the attackers.

452 The cabinet and SSC minutes reveal no references to these raids. After weeks of shuttle diplomacy between the government in Pretoria and the ANC in Lusaka, the mission had reached a delicate stage when the attacks occurred. They had the immediate effect of terminating the diplomatic effort.

453 Addressing the Commission in October 1997, former Foreign Minister Pik Botha stated that "the EPG [Eminent Person's Group] came closer to success than most people realise", which raises the possibility that it was deliberately sabotaged. Pik Botha also confirmed that the raids "were not discussed at any meeting where I was present". At his appearance before the Commission in December 1997, former Defence Minister Magnus Malan said much the same thing when he confirmed that the issue had not been discussed at either SSC or cabinet level. According to Malan, the SADF had wished to mount the attacks on the capitals in late April. "They approached me. I approached the State President. I explained and he gave his approval ... The State President told me to keep quiet about this, this is very sensitive."<sup>27</sup>

454 For unspecified reasons, however, according to Malan, the raids were postponed until mid-May when he again approached Mr P W Botha and obtained his approval. This time the raids were effected. According to Malan, the Eminent Persons'

<sup>27</sup> Transcript of SSC hearings, Cape Town, December 1997, p. 246.

Group issue was not a factor in his considerations. "I was not aware of their programme. I was not aware of what they were doing here. I never met them and I was only concerned with the onslaught against South Africa."<sup>28</sup>

455 The perspective of the SADF was presented in a statement released by its chief, General 'Kat' Liebenberg, who argued that the targets were limited to known "terrorist" ones and that "the South African forces had acted with utmost caution to prevent citizens of our neighbouring states being injured or suffering damage". He also stated that "neighbouring countries cannot plead ignorance regarding the presence of terrorists in their countries". There was no reference in the statement to its timing or the Eminent Persons' Group mission.

456 The case of the Eminent Persons' Group would seem to represent an example of the centralised (*'die hoogste vlak'*) mode of decision making that characterised the PW Botha era. Even the international outcry after the raid and the termination of the mission did not result in the issue being discussed by the cabinet. "After that operation no colleague or anybody else came to me and complained about this operation or even mentioned the operation", General Malan told the Commission. Foreign Affairs Minister Pik Botha was not consulted on the effect of the raids, indicating both the extent to which state policy-making in South Africa had become centralised in the President's office by the mid-1980s, and a telling endorsement of the view expressed to the Commission by former Deputy Minister of Law and Order, Mr Leon Wessels, when he spoke of the lack of a spirit of enquiry in the National Party at that time.

457 On 28 March 1988, SADF Special Forces attacked a house at Phiring, near Gaborone, Botswana. Four people were killed in the raid. The primary target of the operation was Mr Patrick Sandile Vundla (aka Godfrey Mokoena and Charles Naledi), whom the security police had identified in a document written by Brigadier Loots as the overall MK commander for Botswana. All those killed in the raid were shot and then doused with petrol and burnt. The other three victims were Batswana women whose names are not known to the Commission.

458 Amnesty applications in connection with this operation were submitted by Willem Schoon and then Major (later Colonel) Jan Coetzee of the West Rand Security Branch. In his application, Schoon states that he was summoned to Cape Town prior to the raid to meet with the then police commissioner and chief of the SADF, and requested to arrange for an arms cache which was to be hidden and then discovered. The 'discovery' was to be given significant media

28 *Ibid.*, p. 247.

coverage in order to provide the SADF with a motivation for a large-scale armed attack on Botswana. Schoon undertook the task with the assistance of Eugene de Kock and C2 head Martin Naudé. They put together a cache comprised of weapons of Eastern bloc origin which Major Coetze arranged to be hidden in an abandoned mine in the Krugersdorp area. In testimony in mitigation at his trial, De Kock confirmed his participation in what was, in effect, a state-directed 'false-flag' propaganda operation

- 459 The Commission has evidence of other cross-border raids not included in the SADF's list. One occurred on 17 March 1981 when an SADF patrol crossed from northern Natal into the Mozambican resort of Ponto do Ouro in what one source described as a test of Mozambique's border defences. A clash ensued in which one SADF member, Corporal PJ Viljoen, was killed.
- 460 Another raid also allegedly involved Mozambique and may have occurred in January 1992 when FRELIMO troops, conducting a military operation against RENAMO south of Maputo and close to the South African border, were exposed to what may have been a chemical attack. The allegation is based on apparent eye-witness accounts of explosions above the ground and reports that soon thereafter some of the FRELIMO troops began to suffer from nausea and heat exhaustion. Some soldiers required hospitalisation and there are unconfirmed reports that some died.
- 461 The reports of the attack were extensively investigated by scientific teams from five countries – Mozambique, South Africa, Switzerland, Sweden and the United Kingdom. Only the latter expressed a view that a chemical agent had been used. The others were all inconclusive.
- 462 The SADF denied the allegations, and inquiries by the Commission have not uncovered corroborative evidence pertaining to this incident, other than that South Africa had developed a chemical warfare capacity in the 1980s. The Steyn report suggested that the incident may have been caused by a test in the Komatipoort area.
- 463 In the raids discussed in this section on cross-border operations, eighty-two people were killed, of whom four were members of the SADF and twenty-three (more than one-third) non-South Africans and presumably therefore wrong targets. Three others were abducted, of whom one was killed. A total of thirty – all but two non-South Africans – were hurt.

THE COMMISSION FINDS THAT ALL OF THE ABOVE OPERATIONS CONSTITUTED VIOLATIONS OF THE SOVEREIGNTY OF THE COUNTRIES INVOLVED AND AN INFRINGEMENT OF THE PRINCIPLES OF INTERNATIONAL LAW. THEY ALSO INVOLVED GROSS VIOLATIONS OF THE HUMAN RIGHTS OF ALL THOSE KILLED AND INJURED IN THESE ATTACKS, IRRESPECTIVE OF THEIR STATUS AS TRAINED COMBATANTS IF SUCH COMBATANTS WERE ATTACKED IN A NON-COMBAT SITUATION. THE COMMISSION FINDS THAT THE OPERATIONS CONSTITUTED A SYSTEMATIC PATTERN OF ABUSE WHICH ENTAILED DELIBERATE PLANNING ON THE PART OF THE FORMER CABINET, THE STATE SECURITY COUNCIL AND THE LEADERSHIP OF THE SADF AND THE SAP. THE COMMISSION FINDS THESE INSTITUTIONS AND THEIR MEMBERS ACCOUNTABLE FOR THE AFORESAID GROSS VIOLATIONS OF HUMAN RIGHTS.

## ■ **SABOTAGE AND ARSON**

464 While many of the actions described in this section were not in and of themselves gross human rights violations, they were state-directed acts of extra-territorial aggression and a component of the South African government's counter-revolutionary warfare strategy. They complemented the killings and other gross violations of human rights described earlier and are included as part of the requirement to provide as complete a picture as possible.

465 The targets for these attacks fall into three categories:

- a economic, military and other infrastructural facilities;
- b the offices of liberation and other organisations opposed to the South African government;
- c houses/residences occupied or used by opponents of apartheid.

466 The Commission has accumulated evidence of acts of sabotage directed at socio-economic and military targets, primarily in the countries of the region that offered concrete support to the ANC. However, even targets in friendly countries like Swaziland were sometimes hit.

467 The Commission has information on attacks by South African security forces or their surrogate allies, on schools and clinics, road and rail networks, bridges, electricity, water, fuel and communications lines or networks, food stores, dipping facilities, farms or fields of crops.

468 One particular target in Mozambique was the Caboira Bassa electricity network, which was so frequently sabotaged as to be inoperative for more than a decade.

The oil pipeline to Zimbabwe and the rail route between Beira and Zimbabwe were other frequent targets. In March 1982, SADF Special Forces' operatives blew up fuel storage tanks at Beira while official records show that the fuel pipeline was ruptured in attacks thirty-seven times between 1982 and 1987, with an estimated loss of over ten million litres of fuel. In an eighteen-month period between February 1986 and September 1987, the Beira railway line was sabotaged by RENAMO on average once a week. Evidence has also been given to the Commission of South African seaborne Recce attacks on port facilities in Beira and Maputo harbours.

- 469 In the case of Angola, the short-term strategy for that country adopted by the SSC in March 1979 stated that attacks on the roads, bridges, rail networks and airfields of the south should be of such a nature that they could not be used again for the rapid deployment of the Angolan security forces. Perhaps the most economically devastating consequence of this strategy was the fact that it rendered the Benguela railway, which linked the south of Angola with the central African interior, inoperative for ten to fifteen years.
- 470 The earliest evidence available to the Commission of an external sabotage operation is of the bombing in mid-1963 of a transit centre for South African refugees in Francistown, Bechuanaland, followed soon afterwards by the blowing up of a plane at Francistown airport. The plane had been chartered to fly Harold Wolpe and Arthur Goldreich to Tanzania. Detained at the time of the Rivonia arrests, these two had escaped from the Johannesburg Fort prison and made their way via Swaziland to Bechuanaland. According to Williamson, only Republican Intelligence (RI) operatives would have had the capacity to perform such an operation at that time.
- 471 In terms of attacks on military installations, South African security forces and their agents were involved in at least four operations in Zimbabwe in the early 1980s. \$250 000 worth of arms were stolen from the Cranbourne Barracks in Harare in December 1980. In the same month an attempt was made to blow up thirty army vehicles at the King George VI Barracks.
- 472 On 16 August 1981, an explosion at the Inkomo Barracks near Bulawayo destroyed weapons valued at approximately \$50 million. The commander of the corps of engineers in the Zimbabwe National Army, Captain Patrick Gericke, was arrested soon after the attack. Gericke was suspected of having led a group in the attack, which resulted in bombs going off at intervals over a four-hour period.

The fact that his release from prison in December 1981 was engineered by a Zimbabwean police inspector, Mr Fred Varkevisser, who may also have been a South African agent, suggests that he may have been acting on South Africa's behalf. Along with Varkevisser's family, they were then flown to South Africa in a light aircraft, after which Gericke joined the SADF.

473 Zimbabwean agents and SADF Special Forces operatives were involved in the attack on the Thornhill airforce base near Gweru on 25 July 1982, in which thirteen fighter trainers of the Zimbabwe Air Force were destroyed. Four senior air force officers, including Air Vice-Marshall Hugh Slatter, were arrested for this operation. Under torture, they confessed their involvement but were acquitted when the trial judge deemed their confessions inadmissible. They were almost certainly not involved. Evidence gathered by the Commission suggests that this operation was undertaken by a South African Special Forces group led by a long-serving member of the Recces operating as an agent in Zimbabwe. The Commission has the names of four SADF Special Forces operatives who participated in that attack.

474 Two days prior to Thornhill, on 23 July 1983, six foreign tourists (two British, two American and two Australian) were abducted in the Lupare area on the road between Bulawayo and Victoria Falls. They were murdered three days later. The negative publicity badly affected Zimbabwe's tourist industry.

475 In October 1996, the Zimbabwean journal *Moto* published a report that the abductions had been the work of eight former Selous Scouts acting "on the orders of ex-agents of the Rhodesian intelligence who also doubled as South African agents" (p. 7). The Commission has obtained no information to corroborate the allegation.

476 Six months prior to Thornhill, on 18 December 1981, the offices of the ruling ZANU Party in Zimbabwe were blown up in Harare in an assassination attempt on senior Zimbabwean politicians, including Mr Mugabe. The central committee of the Party was due to meet at the time of the blast but was delayed due to the Prime Minister's late arrival. Seven civilians on the street and in shops nearby were killed in the blast, and 124 were injured. Double (South African and CIO) agents Mr Colin Evans and Mr Philip Hartlebury were arrested for their involvement in the attack. According to a report in a Zimbabwean journal , another double agent alleged to have been directly linked to the blast was Mr Peter Stanton. After leaving Zimbabwe, Stanton became a member of D40 and Barnacle and eventually the CCB.

477 ANC offices, or what were described at the time by the South African government as such, were subjected to sabotage attacks in at least seven countries. These were Zimbabwe, Zambia, Mozambique, Botswana, Lesotho, England and Sweden. In addition, attempts were made to assassinate ANC representatives in France and Belgium in their offices – successfully in the French case. South African government involvement in all but the Swedish and Belgian cases has either been admitted or conclusively established. In the two cases in doubt, circumstantial evidence points to the involvement of South African state agents.

478 In addition, in July and August 1982, the South African Security Branch was responsible for burglaries of the ANC, PAC, and SWAPO offices in England, for which two agents – Mr Peter Casselton and Mr Edward Aspinall – were imprisoned and a diplomat attached to the London mission, Warrant Officer Joseph Klue, was expelled. The office of the Anti-Apartheid Movement (AAM) in London was also burgled on at least one occasion in the 1980s.

479 Casselton and Klue played a prominent role in the most audacious of these sabotage operations, namely the attack on the ANC's London mission on 14 March 1982. The then head of the Security Branch, General Johan Coetze, has submitted an amnesty application for his planning role in the operation. The Commission has also received applications from the team of security police operatives assembled for the attack – Craig Williamson, Eugene de Kock, Major John Adam, Jerry Raven, 'Vic' McPherson and Captain Jimmy Taylor. In his application, Coetze states that the instruction to undertake the operation came from the then Minister of Law and Order, Louis le Grange, and was undertaken in reprisal for the involvement of British subjects in the ANC rocket attack on the Voortrekkerhoogte military base near Pretoria in 1981.

480 The task of assembling the team was assigned to Colonel Piet Goosen, then head of section G (foreign intelligence) of the Security Branch. The plastic explosive components for the bomb were developed by Jerry Raven of the police technical division and shipped to London in a diplomatic bag. These parts were collected and delivered by Klue, then a military attaché at the South African Embassy in London, to Casselton's home, where Raven assembled the bomb.

481 The false documentation for the detonation team was prepared by a section G member who has not applied for amnesty and cannot therefore be named; nor can the member of the police forensic laboratory who prepared vials of nerve gas. According to one of the operatives, the gas was for "added protection for the

team". The use of the diplomatic bag was a violation of international conventions in regard to diplomatic conduct between nations. At his appearance before the Commission, former Minister of Foreign Affairs, Pik Botha, denied any prior knowledge of the use of the bag.

482 The ANC office was empty at the time of the explosion; only the caretaker of the building was slightly injured. Both the AAM's former chair, Lord Hughes (in his appearance before the Commission) and its executive secretary, Mr Mike Terry (in a discussion with the Commission) raised the possibility that the operation may have been an assassination attempt on the life of the ANC president, Mr Oliver Tambo. They point to the fact that the operation coincided with a large international anti-apartheid demonstration in London that weekend. The gathering and Tambo's participation in it, they claim, had been widely publicised. They also point to the timing of the blast (09h00) and the fact that it was well known that Tambo tended to hold early morning meetings at the ANC office when in London.

483 After the operation, each of the participants was decorated with the Police Star for Excellent Service (SOE) at a ceremony in Minister le Grange's office, attended by General Coetze and the then SAP commissioner, General Mike Geldenhuys.

**THE COMMISSION FINDS THAT THE OPERATION AGAINST THE ANC DIPLOMATIC MISSION IN LONDON WAS AUTHORISED BY THE SOUTH AFRICAN GOVERNMENT AT THE HIGHEST LEVEL AND THAT THE PRIME MINISTER, MR PW BOTHA, AND THE MINISTER OF LAW AND ORDER, MR LOUIS LE GRANGE, ARE DEEMED TO BE DIRECTLY ACCOUNTABLE. THE RAID WAS UNDERTAKEN IN VIOLATION OF THE TERRITORIAL SOVEREIGNTY OF THE UNITED KINGDOM AND WAS ALSO A VIOLATION OF INTERNATIONAL LAW IN TERMS OF ARTICLE 27, PARAGRAPH IV OF THE 1961 VIENNA CONVENTION ON DIPLOMATIC RELATIONS IN REGARD TO THE USE OF THE DIPLOMATIC BAG.**

484 A little over four years after the London bombing, the ANC office on the third floor of an office block in Stockholm, Sweden, was severely damaged in an explosion on 9 September 1986. Three people were present in the office at the time, including the ANC's representative, Ms Lindiwe Mabuza. No one was injured. No arrests were made for the bombing and no group ever claimed responsibility. While the ANC suspected South African involvement, a Swedish police inspector suggested the ANC had organised the explosion itself "because the ANC needed publicity". The Commission uncovered no new evidence on the incident and can make no finding on it.

485 In June 1985, according to the amnesty application of 'Vic' McPherson, the ANC office in Cha Cha Cha Road, Lusaka, was bombed. The plan was 'sold' to the commissioner of police as an attempt to kill Joe Slovo, and involved a Swaziland-

based agent code-named Ali placing a booby-trapped briefcase in the offices. Ali failed to penetrate the office complex and instead placed the bomb at the entrance gate. It caused minimal damage. Ali was paid R15 000 for the attempt.

486 Almost exactly a year later, on 17 May 1987, the relocated ANC office in a residence in Lincoln Street, Harare, was hit by a rocket fired from a distance of 200 metres. No one was hurt in the attack.

487 The UNHCR office in Swaziland was burgled in the late 1970s in an operation detailed in the amnesty application of Dirk Coetze. He states that he was tasked with the operation by Major Nic van Rensburg of the Ermelo Security Branch and was assisted by two Eastern Transvaal Security Branch members and some 'friends' based in Swaziland.

488 The Ephesus House office in Manzini, Swaziland, was burgled on 17 October 1986. The raid was led by amnesty applicant Eugene de Kock, assisted by nine others including Daniel Izak Bosch, who also applied for amnesty. A refugee support organisation, Ephesus worked closely with ANC and MK operatives and served as a conduit for Scandinavian government funding of the ANC. Files stolen in the raid contained sensitive information on underground operatives. A year before the raid, the chair of the Ephesus Board, Dr John Daniel, had been deported from Swaziland in terms of the Swazi-South African security pact, while the chief administrator in the office, Ms Felicia Forrest, had been detained by the Swazi police. Her feared handover to the South African security police was prevented by the vigorous intervention of the Norwegian embassy in Harare, which sent a senior official to Swaziland. The Norwegian government was one of the funders of the organisation.

489 The Commission has information on, and amnesty applications for, attacks on houses which appear to have been undertaken only because they housed ANC members or supporters.

490 One attack, for which Eugene Fourie has applied for amnesty, occurred in 1989 and targeted the Swazi home of the then MK commander for Natal, Mr Muziwakhe Ngwenya (aka Thami Zulu). The intention was to kill Zulu and seize documents pertaining to planned MK operations. Documents were seized, but Zulu was away at the time and not apprehended. His wife, Ms Thabisile Mngadi, their two children and an elderly woman were not harmed, although they were bound, gagged and locked in the house.

491 Vlakplaas operative Sergeant DJ 'Duiwel' Brits applied for amnesty for a 1985 attack on a house in Botswana alleged to be a transit facility. Explosives were placed and the property extensively damaged. The house was empty at the time of the attack. Brits was accompanied by seven other Vlakplaas members in this operation.

492 The Commission has uncorroborated information of an attack in Gaborone in February 1985 in which two exiled South African journalists escaped injury when their home was bombed; of the killing of an unnamed South African refugee in Gaborone in May 1985 when his house was bombed; of a 1986 bomb attack on a house in Gaborone where a Basotho woman was killed and her child hurt; of hand grenade attacks on four houses in Gaborone in December 1987 which caused extensive damage but no injuries. Also hit was the Botswana Book Centre, a repository of progressive literature.

## ■ UNCONVENTIONAL MILITARY OPERATIONS

### The attempted overthrow of the Seychelles government

493 On 25 November 1981, a mixed group of mercenaries and SADF members failed in an attempt to overthrow the government of Prime Minister Rene of the Seychelles. Intercepted entering the country via Mahe airport, the mercenaries engaged in a brief gunfight in which two people were killed. One was a Seychellois citizen, the other was one of the plotters, SADF Recce 2 member Johan Fritz. While the group was headed by a well-known mercenary figure resident in South Africa, Colonel Mike Hoare, one of the coup's planners and participants, former BOSS/NIS agent Mr Martin Dolincheck, stated that it had cabinet authorisation.

494 There is no prior reference to the operation in the SSC minutes or in any of the SSC's documentation. The failure of the operation, however, was reported to the SSC on 2 December 1981 and discussed briefly. The Minister of Police was authorised to handle the matter.

495 The forty-three were never charged with hijacking but with lesser offences relating to air traffic regulations. During the course of the trial, General Malan, in his capacity as Minister of Defence, invoked section 29(1) of the General Laws Amendment Act barring twenty-five of the accused and/or witnesses (all of whom were current or reserve members of the SADF) from giving evidence on matters concerning their involvement in SADF operations prior to 24 November 1981. Without their testimony, only eight of the forty-three accused were convicted.

496 The Commission cannot establish conclusively that this operation was undertaken on the instructions of the Prime Minister, the Minister of Foreign Affairs or the heads of the relevant intelligence agencies. This cannot, however, absolve them of representative responsibility for the fact that senior National and Military Intelligence officers and senior officers of the SADF were involved.

497 The following factors led the Commission to believe there is *prima facie* evidence of high-level state involvement in this operation:

- a In his evidence to the Commission, Martin Dolincheck stated that, while attached to the Durban office of BOSS, he was instructed by his divisional head, Mr N Claasen, to link-up with Colonel Mike Hoare and to ask him to prepare a plan for the overthrow of the Seychelles government. The plan, it is alleged, was submitted to the cabinet and rejected. However, according to Dolincheck, the plan was amended and subsequently approved at cabinet level.
- b Dolincheck claims that planning responsibility for the coup was transferred from NIS (the successor agency to BOSS) to MI at this point, but that he remained the NIS liaison to the operation and was in frequent contact with Hoare. The involvement of Mr Claasen of NIS is confirmed by the fact that he was dismissed from the service after the failed operation.

Dolincheck's view of the take-over of the project by MI is supported by Mr Joseph Leyleveld, then a foreign correspondent resident in South Africa. Writing in the *International Herald Tribune* on 11 May 1982, Leyleveld reported that intense infighting between the NIS and MI over control of the project had ultimately been resolved when Prime Minister PW Botha "allocated planning for the Seychelles' coup operation to MI, while the protests of the civilian intelligence services were mollified by the appointment of Martin Dolincheck as a liaison officer on behalf of the NIS".

The contact between Dolincheck and Hoare is confirmed by the official United Nations investigative report into the coup attempt. It records three meetings between them at Hoare's home near Pietermaritzburg in September, October and November 1981. Thereafter, Dolincheck left for the Seychelles as part of an advance party.

In his judgement at the trial of the coup participants, Mr Justice James stated that, while there was no proof of the South African government's involvement,

he accepted that senior SADF and NIS members were involved in the coup's planning. He did not, however, address the question of how such senior security officials could be so involved without either political authorisation or without the government being or becoming aware of their involvement.

- c The South African government paid President Rene three million dollars to secure the release of Dolinchek and the other plotters captured during the coup attempt and subsequently given long prison sentences. Dolinchek was initially sentenced to death, but this was later commuted to life imprisonment. In testimony to the Commission, Mr Pik Botha confirmed the payment, although he could not remember the exact amount and mentioned a figure in the region of R20 million.
- d The profile and composition of the individuals involved in the coup attempt: of the fifty-four participants, only eleven seem to have had no ties with either the SADF or the Rhodesian military. The other forty-three were either serving or reserve military personnel – twenty-five South Africans, members of one or other of the SADF's Reconnaissance Regiments, and eighteen former members of such Rhodesian military units as the Selous Scouts, SAS, Rhodesian Light Infantry (RLI) or the Special Branch. One of the former Congo mercenaries, Mr Jeremiah Puren, was named by a former SADF general and high-ranking MI officer in a discussion with the Commission as an "NIS agent".

Although they were prevented by the Minister of Defence from giving testimony in court, the SADF reservist members of Recce 2 claimed that they joined the coup attempt because they believed it had the backing of the government. Reinforcing this view was the fact that a number of them claimed to have received call-up papers from the SADF and this is what brought them into the operation.

Speaking in Parliament on 13 February 1984, Defence Minister Magnus Malan confirmed that those involved in the coup attempt included "men who were or are employed" by the SADF, but he refused to give any further details on them or their role in the coup.

- e The well-established links between various agencies of the South African state and the Seychellois exile community in South Africa from the time of the overthrow in 1977 of the government headed by Mr James Mancham.

Evidence obtained from the archives of the Department of Foreign Affairs reveals high-level and regular contacts from 1978 between officials of the Department and leaders of the exile community. Two documents<sup>29</sup> drafted by a senior DFA desk officer in Pretoria, Mr Carl von Hirschberg, refer to several meetings between the Department and various exiles, and makes it clear that both the DFA and MI were well aware of the intention by the followers of Mancham to attempt a coup and that much of this planning was being done in South Africa.

In his written submission to the Commission, Mr Pik Botha does not actually deny the fact of the government's involvement in the operation. Instead, he quotes at length and without contradiction the conclusions of the UN Commission of Enquiry into the coup. This found that the NIS had been aware from the outset "of the preparations for the mercenary aggression" and that a number of factors clearly established the fact of South Africa's involvement. Amongst these were the SADF's delivery to Hoare of the arms, ammunition and other equipment to be used in the operation (the delivery took place on 6 October 1981 and was made by a Sergeant Major van der Merwe); the participation of an unnamed SADF officer in the preliminary discussions, and the participation by members of 2 Recce in the operation itself.

- 498 In the light of these and other facts, the UN Commission concluded that "if responsible ministers were not at least aware of what was going on, this indicates both a remarkable lack of control by the South African government over its own agencies and a lack of awareness that is hard to reconcile with the tight and effective control exercised by the security authorities in South Africa".
- 499 Clearly the UN Commission did not fully accept Prime Minister PW Botha's statement to Parliament on 29 July 1982 that "neither the South African government, the cabinet , nor the State Security Council were aware of the coup". However, like the Truth and Reconciliation Commission, they could not establish conclusively otherwise.

**THE COMMISSION FINDS THAT THE ATTEMPT TO OVERTHROW THE SEYCHELLES GOVERNMENT WAS AN OPERATION UNDERTAKEN BY SENIOR OPERATIVES OF THE NIS AND THE DEPARTMENT OF MILITARY INTELLIGENCE WITH THE COLLUSION OF ELEMENTS WITHIN THE SADF. AS SUCH, IT WAS A VIOLATION OF INTERNATIONAL LAW AND AN INFRINGEMENT OF THE SOVEREIGNTY OF THE SEYCHELLES GOVERNMENT. THE DEATH OF A SEYCHELLOIS CITIZEN IN THE OPERATION WAS A GROSS HUMAN RIGHTS VIOLATION.**

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29 Refs 1/194/3 and 1/194/1 dated May 1979 and November 1981.

FOR THESE ACTS, THE COMMISSION FINDS THE FOLLOWING TO BE ACCOUNTABLE IN THEIR CAPACITIES AS HEADS OF AGENCIES OF THE STATE DIRECTLY INVOLVED IN THE OPERATION: PRIME MINISTER PW BOTHA, MINISTER OF DEFENCE GENERAL MAGNUS MALAN, HEAD OF THE OFFICE OF CHIEF OF STAFF INTELLIGENCE LIEUTENANT GENERAL PW VAN DER WESTHUIZEN, AND THE NATIONAL INTELLIGENCE SERVICE.

# The state inside South Africa between 1960 and 1990

## ■ INTRODUCTION

- 1 The security forces used both overt and clandestine methods to suppress resistance and counter armed actions by opponents of apartheid. Overt methods included bannings and banishment, detention without trial, judicial executions and public order policing. More clandestine and covert forms of control included torture, extra-judicial killings and support for surrogate forces.

## ■ BANNINGS AND BANISHMENT

- 2 Between 1950 and 1990, the former state restricted the lives and activities of political activists and other individuals it considered a threat through the use of orders of listing, banning and banishment. Although listing was an intrusion on civil liberties, the Commission does not regard it as a gross violation of human rights. A listed person could not be quoted, could not hold parliamentary office and could not practise law.
- 3 The laws which provided for such restrictions included the Riotous Assemblies Act (1930), the Suppression of Communism Act (1950), the Public Safety Act (1953), the General Laws Amendment Act (1962), the Suppression of Communism Amendment Act (1967, amended 1972), the Terrorism Act (1976), and the Internal Security Acts (1976 & 1982).

### Banishment

- 4 The 1927 Native Administration Act empowered the Minister of Bantu Administration and Development (acting through the Governor General) to order "any tribe or native" to proceed forthwith to any designated place and not to leave it again

without permission "whenever [the Minister deemed] it expedient in the general public interest". No specific reason for the banishment was needed; the 'removal' of the individual was in the interest of "maintaining peace and good order in the tribe". Banished people were not charged in a court of law and had no opportunity to defend themselves.

- 5 By 1960, up to ninety-seven people had been banished, most of them chiefs and headmen who had opposed the Bantu Authorities system and other aspects of government policy. In 1986, over forty persons were still banished. Eleven had died in banishment.
- 6 Banished people were sent to isolated farms on Native Trust land, where they were usually given work as labourers. Some went alone; others were sent to camps built for groups of six or more. Both they and those who visited them speak of their extreme poverty and near-starvation. Those who were not given work were entitled to an allowance of about R4 per month, though not all received this. A banishment order was indefinite and remained in force until the government gave permission for the banished person to return home.
- 7 Mr Ben Baartman [CT00822/BRE], an active African National Congress (ANC) member in Worcester, was forced to move to the Ngwavuma area in Zululand in 1959. In 1961, he fled to Swaziland.
- 8 In 1960, the South African Police (SAP) burnt down the houses of Mr Zetule Siqa [EC1770/97ETK] and his father in Bizana, Transkei, under the orders of the local chief Makhosonko Marhelane Sigcawu. Both Siqa and his father were involved in *iKongo* (ANC) activities. They were then banished to Tabankulu for a period of nine months.
- 9 In June 1969, Mr Rangoezi G Tshikilange [JB01421/02NPVEN] was deposed as chief of Tshififi in the northern Transvaal, and banished to the farm 'Ardath' in the Kuruman district. His wife died in childbirth and their baby died soon afterwards due to lack of medical attention. In February 1974, his banishment order was lifted and replaced with a house arrest order. He lost another child when he was unable to take the child to hospital.
- 10 Ms Nozithandiso Olga Siliza told the Commission that her husband, Mr Mzwandile Siliza [EC1287/96NWC], was tortured and that she and her family were severely ill treated in Cradock and Queenstown from 1963 to 1987. Her husband, the

secretary of the Cradock ANC branch, was arrested and imprisoned on Robben Island from 1963 to 1966. He was assaulted by prison warders and his teeth were broken. After his release, the family were banished from Cradock to Queenstown. As a result of the conditions under which they had to live, Ms Siliza's baby died after three months. They had no money for a coffin, so it was buried in a cardboard box.

- 11 Mr Cijimpi Mnyandu [KZN/NN/233/DN] from Umbumbulu on the Natal South Coast was banished to the Sibasa area of Shayandima (later known as Venda). He died of pneumonia at the Tshelethsini hospital in 1964.
- 12 Mr Jobo Titus was banished to the Transkei after serving six years on Robben Island. After ten years of banishment, on 8 December 1982, Titus fled to Lesotho. The next day he was killed in the South African Defence Force (SADF) cross-border raid in Maseru.

## Banning

- 13 Banning of persons took place between 1951 and 1990. Its purpose was similar to that of 'preventive' detention – to ensure withdrawal from the political arena. The duration of banning orders ranged from one to five years, but an order could be successively applied. The longest period of banning on record is that of Mr Rowley Arenstein, who was banned for twenty-six years from 1960 to 1986.
- 14 A banned person was restricted to a specific magisterial area. When this area was not the banned person's home area, the banning order effectively became a banishment order as well. This is what happened, for example, when Ms Winnie Mandela was banished to Brandfort in the Orange Free State in 1977. Similarly, many prisoners leaving Robben Island after serving their sentences were served with orders banning them to remote areas.
- 15 Banning orders often restricted people's involvement in organisations, as well as their ability to publish. Banned persons were not permitted to communicate with each other and many orders restricted them from attending social gatherings of more than one person.
- 16 Banning orders were imposed on social and political activists from all spheres of civil society. In many cases, the Security Branch provided the Ministry of Justice with flimsy and inadequate reasons for bannings. During 1986, a number of

successful court challenges were brought against banning orders, on the grounds that the reasons the Minister was required to give under section 25 of the Internal Security Act were invalid. From then on, no banning orders were issued under the Internal Security Act. Instead, use was made of wider powers under state of emergency regulations. Many of those released from state of emergency detention during the 1988–89 period were served with restriction orders.

- 17 The terms of restriction orders made people vulnerable to attack. In April 1989, United Democratic Front (UDF) activist Chris Ntuli was stabbed to death in KwaMashu, Durban, shortly after reporting to the police station in terms of the restriction order placed on him after his release from emergency detention. All state of emergency restriction orders were withdrawn on 2 February 1990.
- 18 The Commission heard that Mr Zolile ‘Zollie’ Malindi [CT00510/FLA] received a two-year banning order in 1961, a further five-year order in 1963 and a third order in 1968. The order cost him his job in the Cape Town magisterial district. When he finally found a job, he lived in fear of losing it as police frequently disturbed him at work.
- 19 Ms Nobuhle Mohapi [EC9997/96PLZ], whose husband Mr Mapetla Mohapi died in detention in 1976, was banned after spending six months in solitary confinement. She told the Commission about the disruption to her family and work:

*Then I was released. I took my children from my in-laws. Just a week after I took them, the police came and they arrested me. I had to take my children to my in-laws again and [in] another week I was released again. Thereafter my in-laws preferred that I should leave the children so that they cannot be affected by these removals ... The children were attending school at the time but, because I was under a banning order, I was unable to visit them. I ... could not escort my little one to school like any other parent ... I was unable to get jobs and was labelled as a terrorist ... In 1979 I got a job in a furniture shop. I was employed for five days and the police came again at Ellerines where I was working and they took me again. I was paid for the five days that I worked and was told that the job was finished.*

- 20 Submissions describing periods spent under banning orders were also received from Mr George Gangen Poonen [KZN/SELF/098/DN], Ms Mary Turok [CT02912/GAU], Mr Ben Turok [CT00474/GAU], Mr Christmas Fihla Tinto [CT004771/HEL] and Mr Baderoon Ismail Bakardien [CT01112/SOU].

IN ITS DELIBERATIONS OVER WHAT CONSTITUTED SEVERE ILL TREATMENT, THE COMMISSION HAS INCLUDED BANNING AND BANISHMENT ORDERS. IT IS THUS THE FINDING OF THE COMMISSION THAT ALL THOSE UPON WHOM SUCH ORDERS WERE IMPOSED SUFFERED A GROSS VIOLATION OF HUMAN RIGHTS, FOR WHICH THE FORMER GOVERNMENT AND IN PARTICULAR THE MINISTERS OF JUSTICE AND LAW AND ORDER ARE HELD ACCOUNTABLE.

## ■ JUDICIAL EXECUTIONS

- 21 The former state was reputed to have one of the highest rates of judicial execution in the world. In the period covered by the Commission's mandate, over 2 500 people were hanged, 1 154 between 1976 and 1985. Some 95 per cent of all people executed were African. Studies have noted that the death penalty was far more likely to be imposed if the victim of a capital offence was white and the perpetrator black.
- 22 While the vast majority of executions were for criminal offences, capital punishment was also used against those found guilty of political offences, in defiance of the Geneva Convention. South Africa was a signatory to the 1949 convention, but declined to sign the 1977 addenda extending the definition of prisoner of war to captured guerrillas.
- 23 The death penalty could be imposed under the General Laws Amendment Act (1962), the Terrorism Act (1967) and the Internal Security Act (1976) (which replaced the Suppression of Communism Act).
- 24 The first 'political hangings' took place in 1959, a year before the beginning of the Commission's mandate period. In 1961, approximately twenty people were sentenced to death after the Pondoland revolt.<sup>1</sup>
- 25 In the 1960s, almost one hundred Poqo activists were hanged for involvement in acts of violence in Paarl, Mbashe (Bashee Bridge), Ntlonze Hill, Queenstown, Cofimvaba, Krugersdorp, Pretoria, Umtata, Langa and other areas.<sup>2</sup>

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<sup>1</sup> The Commission received statements in connection with the following persons executed for their part in the Pondoland revolt: Nyamaayipheli Dinwa [EC1684/97 ETK], Shadrack George [EC0656/96ETK], Cenjulwa Hlongwe [EC0337/97ETK], Barnabas Mahlati Magawana [EC1632/97 and 1777/97ETK], Douglas Kheuwula Magawana [EC1532/97 & 1777/97ETK], Nkanyezzi Mdayimani [EC1777/97, 2069/97 & 2169/97ETK], Mtholeni Msolobhana Mfuywa [EC1972/96ETK], Marelanza Horace Mgulwa [EC1777/97ETK], Sheleni Mehlokulu [EC0656/96ETK], Mnconco Mjanyelwa [EC0582/96ETK], Ntomaswa Ndinwa [EC1683/97ETK], Yiva Ndisile [EC0581/96ETK], Masipalati Ntshekeyana [EC0339/97ETK], Majola Shusha [1777/97ETK], and Gavu Mkhize Zadunge [EC0655/96 & 0789/96ETK].

<sup>2</sup> Among them were: Gqibile Nicholas Hans [CT00269/WIN], Bonakele July [EC2713/97WTK], Bubele Koboka [EC1272/96STK], Lennox Mngambili Madikane [EC1270/96STK], Right Mangqikana [EC2079/97UTA], Zenzele May [EC2661/97WTK], Modis Mbizo [EC2664/97], Nkosinam Ngalo [EC2658/97WTK], Gadavu Johannes Notyhawe [EC1273/96STK], Advocate Mteteteli Ntuli [EC2667/97WTK], Katsekile Pilaphi [EC2683/97WTK], Joseph Bhazalele Qitsana [EC1344/96CTK], Goli Sonamzi [EC2663/97WTK], Nontasi Albert Tshweni [CT01338/ECA] and Mzwandile Leonard Zamboda [EC2710/97WTK].

26 On 6 May 1964, three ANC members in the eastern Cape – Mr Vuyisile Mini [EC2097/97PLZ], Mr Wilson Khayinga and Mr Zinakile Mkaba – were hanged after having been found guilty for killing a person suspected of informing on the ANC.

### **The case of Mpumelelo Bongco**

*Mr Mpumelelo Washington Bongco [EC 2165/97ETK], the Eastern Cape regional commander of Umkhonto weSizwe (MK), was detained at about midnight on 15 February 1963. He alleged that he was handcuffed behind a door, and beaten and kicked during questioning the following day. After he collapsed, the handcuffs were removed. Security Branch members continued to kick him with their boots and also trampled on his face. Knowing that he suffered from tuberculosis, they threatened: "We will kill you with your TB". On his release, he was charged with being in East London illegally and acquitted. He then laid charges against Sergeant Donald Card for assault, and alleges that he was again arrested and assaulted for pressing the charge. Released once again, he was hospitalised for some time.*

*In July 1963, he was detained under the ninety-day detention law. After repeated threats, he was forced to sign a statement withdrawing the charge against Sergeant Card. He was subsequently charged under the 'Sabotage Act' and sentenced to death in the Queenstown Circuit Court on 23 March 1964 in connection with a petrol bomb attack on the home of Mr Ddomboti Hovi. At this trial, two prosecution witnesses admitted having been assaulted during their detentions.*

*A security branch member is alleged to have visited Mr Bongco in his death cell and offered to have his death sentence commuted if he gave evidence against the others. Mr Bongco refused and instead went ahead with the assault charge, which was dismissed by the Supreme Court in East London on 17 November 1964.*

*On 10 December 1964, Washington Bongco was executed.*

27 On 1 April 1965, Mr John Harris, a member of the African Resistance Movement (ARM), was executed for placing a bomb at the Johannesburg main railway station, resulting in one death and several injuries. Harris was the first and only white person in the mandate period to be hanged for a political offence. His widow, Ms Anne Wolfe, told the Commission:

*5.30 am was the time set for the execution. We were all awake, thinking of John ... Not long afterwards the phone rang. Ad Hain answered. The voice said: 'Your John is dead.' She recognised the voice as one of the Special Branch men's.*

### **Andrew Zondo**

28 From 1976 onwards, a number of MK members were sentenced to death and executed. One of these was Mr Sibusiso Andrew Zondo [KZN/NG/010/DN]. Andrew Zondo (19), from KwaMashu, north of Durban, went into exile in Mozambique at the age of sixteen after a brief period of detention. He intended to study. In May 1983, a bomb detonated outside the South African Air Force (SAAF) headquarters in Church Street Pretoria, killing eleven people. The following week, the SAAF launched a retaliatory raid on a suburb in Maputo, killing six people, including a child in a creche. This changed Zondo's plans and he decided to undergo military training as he saw "violence as the only option for changing the lives of black people in South Africa".

29 In December 1985, the South African security forces launched a raid into Lesotho, killing nine people. Three days later, MK members in Durban, including Zondo, retaliated by placing a bomb in an Amanzimtoti shopping centre, killing three adults and two children. Zondo was arrested and charged. The main state witness in his trial was Mr X (Thembinkosi Mofokeng) who, as Zondo's alleged accomplice, was granted immunity from prosecution. Mr X admitted to providing the limpet mine and to accompanying Zondo to the shopping centre. Zondo claimed that he intended to telephone a warning to the shopping centre but could not find a vacant telephone booth.

30 Zondo was sentenced to death by Justice Leon and was hanged on 9 September 1986, less than nine months after the bombing.

31 The spiral of killing continued. Two other persons suspected of being involved in the Amanzimtoti blast, Mr Phumezo Nxweleni [EC0246/96WTK] and Mr Stanley Sipho Bhila [KZN/NJ/004/DN], were executed by Security Branch members after they were acquitted in court (see below, under *Abduction, interrogation and killing*). At Andrew Zondo's memorial service, his brother was so severely assaulted that he developed epilepsy, which subsequently killed him. Two mourners were shot dead leaving his parents' home after the memorial service. Lembede, one of the security policemen involved in the killing of Zondo's alleged accomplice, was himself later killed, allegedly by members of MK.

32 Mr Solomon Kalushe Mahlangu [JB00182/02PS] was executed on 6 April 1979 at the age of twenty. Recently returned from military training in Angola, Mahlangu and Mr Monty Motaung were confronted by police while carrying arms in central

Johannesburg. In the ensuing chase (the Goch Street shooting), two civilians were killed. While evidence suggested that Motaung was responsible for the actual shooting, he had been so badly beaten by police that he was declared mentally unfit to stand trial.

- 33 Mr Thelle Simon Mogoerane [JB04857/01ERTEM], Mr Jerry Joseph Mosololi [JB04958/01GTSOW] and Mr Thabo Marcus Motaung were executed for high treason on 9 June 1982. The three left South Africa after the Soweto uprising and were arrested in December 1981 while on an MK mission near Hammanskraal. In their trial, both Mogoerane and Motaung gave evidence of torture at the Compol Security Branch offices. Mogoerane alleged that he had confessed to MK activities after a pistol had been put in his mouth, followed by a loud bang. Justice Curlewis ruled that their confessions had been freely given.
- 34 Mr Clarence Lucky Payi [KZN/NG/012/FS; EC0855/96STK] and Mr Sipho Brigitte Xulu [KZN/NG/012/FS] were executed for the killing of Mr Benjamin Langa on 9 September 1986. An amnesty application by co-perpetrator Mr Joel George Martins [AM6450/97] indicates that they were acting on the instructions of MK Fear (aka Ralph Mcinga, aka AG Lawrence, aka Cyril Raymonds), an MK commander in Swaziland. MK Fear was subsequently uncovered as a Security Branch agent.
- 35 Mr Michael Lukas [CT00535/GEO] was sentenced to death in August 1987 for killing a bus inspector, Mr William Blouw, on 15 April 1986 during unrest in Oudtshoorn. Lukas was executed seven months later (on 25 March 1988) after he was refused leave to appeal and a petition for clemency to the State President failed. A service held for him in Oudtshoorn on the day of his execution was attended by hundreds of people.

### **'Death row'**

- 36 At the special hearing on prisons (see Volume Four), Ms Paula McBride, who visited condemned prisoners on death row from 1987 to 1990, told the Commission:

*It is a place that was perfectly designed to kill people ... I think that probably the seven-day period before execution is the time that anybody who supports the death penalty should be exposed to and particularly the judges who passed the sentences ... There is a light flurry in the prison, maybe on Tuesdays when the Sheriff arrives with a bunch of notices in his hand and those notices would be for people who the State President had decided were worthy of his clemency.*

*The other bunch of notices would be for those that he decided weren't fit any more to live. So the Sheriff would take both sets of notices up and prisoners would be called. The warder would then walk down the passages in between cells, while the prisoners waiting inside were wondering whether it was their turn today, whether they were going to get handed notices of release or of death. There was complete and utter silence, while the footsteps went down, everyone waiting to see where the footsteps would go.*

*All those told to pack would be taken out of their cells, and they would wait in a line outside the office where the Sheriff was waiting. Those who were given a sentence of death were moved into what was known as 'the pot' because it was where you boiled because of levels of stress before your death.*

37 A warder, Mr Steinberg, testified about his experience as an assistant in the execution of condemned prisoners:

*I came on duty before six o'clock in the morning. All of us moved into the section ... The prisoners were unlocked, we searched them. They were then identified in terms of photographs, they were placed in a row or in a queue so that the first person due for execution would be in front. We then took them one by one to a table ... where they again compared their thumb prints and looked at the photographs again ... After they took the finger prints ... we accompanied the people to the church ...*

*There would then have been a brief church service. Some of the people would receive Communion for the last time and at about half past six ... the Ministers would then move out ... Their [the condemned's] hands were cuffed behind their backs and they had to remove their shoes. At about ten to seven or there about, we would then move with them down the passage and by then it was deadly quiet.*

*They still sang and prayed, they greeted their people, their friends, then we moved to the gallows room, through the various gates until we were in the first reception room before the gallows. They would then stand against a wall with their faces towards us.*

*They were then identified again against their photographs and then the executioner would come to them and ask them about their last wishes. They sometimes thanked us, they sometimes said to us, "God bless you", and after the entire story, we would then put their caps on.*

*You accompany the person [to the gallows room]... Between the trap doors there would have been a pipe railing. The person who was due to be hanged,*

*would go on the left of the railing and the person accompanying, would go on the right. Then on the trap door, there would be two foot prints painted, and you had to make sure that the person was standing on that mark.*

*[T]he man who was going to execute the people, came and he placed the rope around their necks and he would then pull the flap on the hood ... and he pulls the lever ... When I looked down, I noted as the people were swinging from the momentum and had their spastic movements, I noted how they moved ... What went through my thoughts is that this person is now dying.<sup>3</sup>*

THE COMMISSION FINDS THAT ALL EXECUTIONS OF PERSONS CONVICTED OF POLITICAL OFFENCES AND/OR WHICH WERE POLITICALLY MOTIVATED IN THE MANDATE PERIOD CONSTITUTED GROSS VIOLATIONS OF THE RIGHTS OF THOSE SO KILLED, FOR WHICH THE FORMER GOVERNMENT IS HELD ACCOUNTABLE.

## ■ PUBLIC ORDER POLICING

- 38 The period under investigation by the Commission saw thousands of incidents of public disorder. Many of these incidents are extensively discussed in the following volume and elsewhere in this report.
- 39 The creation of a specialised riot control function within South Africa's policing agencies was essentially a reaction to the disorder and political unrest arising from resistance to apartheid. Although the names and structures of the units tasked with this specialist function changed a number of times during the three decades under examination, and implementation devolved to various other policing agencies in homeland and self-governing territories, their roles remained the same – the enforcement of apartheid laws, the suppression of political protest and the prevention of 'unrest, intimidation and unrest-related crimes'.
- 40 In the 1970s, as resistance to apartheid grew, the police began to see the need for a specialised capacity to 'control unrest'. The SAP looked to international models and introduced new training methods and full-time riot control units.

<sup>3</sup> Other cases of judicial executions for political offences known to the Commission are: Mtutu Apleni, 1963; Mangena Jeffrey Boesman, 1989; Serious Dodo, 1967; Kholisile Dyakala, 1989; Livingstone Fatyela, 1967; Goduka Galeni, 1967; Dumisa Galeni; Nkwenkwe Gaqa; Benjamin Mlondolozi Gxothiwe, 1988; Fezile Jada; Mnyangi Moses Jantjies, 1987; Nto Kani; Joel Leballo; Tsepo Letsoare, 1988; Tobilo Richard Lloyd, 1988; Siphiwo Londe; Ceylon Mabaso; Victor Mahlangu; Solomon Mankopane Maqwasha, 1986; Nkoscencinci Maseti, 1967; Isaac Mashigo; Fenele Matikinca; Richard Matsaphae; Alex Matshapa Matsepape, 1986; Mabhongo, May 1964; Mpenze, May 1964; Notimba Mbozwana, 1963; Makhezwene Menze, 1989; Sqwayi Mhlaba, 1962; Matokolo Mhlabeni; Bennet Mhlaeleki; Poli Mili; Zwelindumile Mjekula, 1989; Tembeni Mkoba; Siwana Mlaheki; Phineas Mlotywa; Abraham Mngomezelu, 1989; Sipho Mohala, 1988; Thomas Molathlhgi; Malasella Benjamin Moloise, 1985; Joe Motsumi; Luse Mtembekwana; Petros Mtshobe; Manina Mzanywa; Tusa Mzanywa; Jabavu Mzondi; Jim Ngantweni, 1967; Bonakele Ngcongolo, 1963; Weduwedu Nokulila; Twepe Nonyukela; Jonathan Notiyawe; Gladstone Nqulwana; Tembekile Nyovu; Kathazekile Pilapi, 1962; Veyishile Qoba; Lungile Rewu, 1988; Johannes Segwagwa; Nдумiso Silo Sephenuka, 1989; Edward Sikundla; Thwayi Thwayi; Corry Tyini; Wellington Tyobeka, 1967; Maliza Vulindela; Shilegu Vulindela; Bonasi Vulindlele; Elie Webushe, 1987; Mlamili Wellington Mielies, 1987; Patselo Xhego, 1963; Mtalatala Xhego, 1963; Mbaco Xhego. (List drawn up according to names on PAC and ANC documents.)

41 The SAP was not equipped to deal with a domestic uprising of the scale they faced in June 1976. Police who faced massive protest marches at that time were ordinary officers drawn from nearby stations, with no special skills or training in crowd control. Their lack of capacity was reflected in their tendency to use maximum force. Minister of Police Jimmy Kruger reported at the cabinet meeting of 10 August 1976 that unrest in Soweto continued and that the children were "well-trained". The Minister proposed that: "This movement must be broken, and the police should perhaps act a bit more drastically and harshly, bringing about more deaths." [Commission translation.] This proposal was approved.

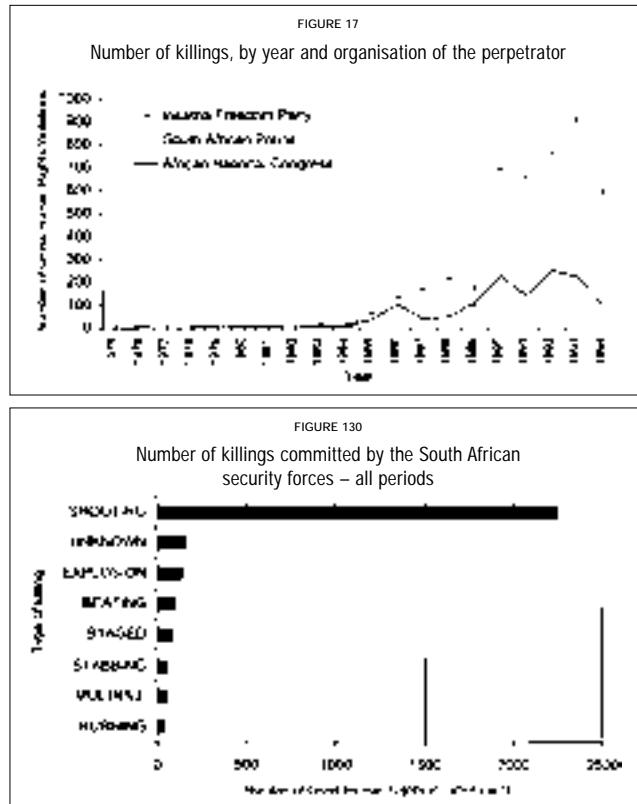
42 In a parliamentary discussion in July 1976 on the desirability of police wearing protective clothing in unrest situations, Jimmy Kruger responded:

*To have our police running around like knights of the Middle Ages, heavily armoured with coats-of-mail and visors, and goodness knows what else – policemen in such garb pursuing fleet-footed little Bantu all over the veld – is something I can hardly imagine. Not only would it be ridiculous, it is also completely unnecessary. In any case, a police officer will hardly be able to handle his rifle if he is also wearing a heavy flak jacket and a face guard.*

43 During the 1980s, the riot policing function was expanded and separated from 'normal' police work, and resources were concentrated around what increasingly became a central police role. The first state of emergency was declared in 1985, and the National Security Management System (NSMS), established in 1979, fully activated in 1985/6. This provided a new context for riot control which was in line with the state's highly militarised and co-ordinated approach to what was being described by the liberation movement as a 'people's war'.

44 Despite the expansion of its riot functions, the police had insufficient capacity to quell the rising levels of unrest. *Operation Palmiet* saw the deployment of SADF troops in a support capacity during the 1984 Vaal uprising. This deployment was later extended country-wide via *Operation Xenon*. However, it remained only a support capacity and the SAP retained primary responsibility for public order policing.

45 Figure 17 reflects a dramatic increase in the level of deaths attributed to the SAP in the 1984–86 period. As Figure 130 illustrates, killings by shooting form the overwhelming proportion of all deaths at the hands of the SAP. According to the Commission's database, the majority of such shootings occurred during the course of public order policing.



46 A signal message containing the minutes of a meeting held in Pretoria on 2 May 1985 by the Joint Security Staff's joint intelligence structure read as follows:

**Recommendation: proposed action against ringleaders**

- The feeling of this GIS is that before a riot situation can be effectively defused, the ringleaders must be selectively eliminated*
- The idea around elimination is twofold:*
  - The physical gunning-down of leaders in riot situations who make themselves guilty of Annexure 1 offences.*
  - The removal of intimidators*

*In the latter case specific thought is given to schools and labour situations. The feeling here is that when ringleaders are removed, they also need to be restricted physically, to such an extent that they are removed from circulation and kept away. [Commission translation.]*

47 Security Forces also used ‘ambush’ tactics against civilian protesters in the Western and Eastern Cape. These, like the ‘Trojan Horse shootings’ in Cape Town, resulted in fatalities and injuries.

48 In this period of crisis, arguments for a new approach to the policing of gatherings began to emerge. The ‘third force’ model was first raised at the State Security Council (SSC) on 4 November 1985, when the Working Committee of the SSC, together with the Security Forces, was tasked to investigate “the possibility of a third force, parallel to the SADF and the SAP”<sup>4</sup>. It was envisaged that such a ‘third force’ would avoid the danger of politicising the police or the army; would allow the police to concentrate on their primary (crime-related) task; would allow the army to deal with civil war-type insurrection and insurgency in line with its traditional defence function, and would create a force with appropriate training and equipment for such work. The meeting noted that similar models existed in countries such as Germany, Italy and the USA.

49 A ‘third force’ working group was set up, chaired by Deputy Minister of Law and Order Adriaan Vlok. This group was involved in processing a number of proposals on the creation of a possible ‘third force’ including:

- a An SAP submission drawn up by Major General AJ Wandrag which proposed that special riot police should work in parallel with the SAP and SADF in combating unrest. The proposal did not support the establishment of a ‘third force’, but recommended instead that the counter-insurgency and unrest components of the SAP be expanded and re-organised under a centralised command structure.
- b The South African Army report, prepared by Brigadier Ferreira, argued that a ‘third force’ “should be able to deal internally with all security aspects relating to a revolutionary onslaught and should therefore have the full capacity required” (Commission translation). This should include a unity of command; the full intelligence capacity to deal with national security; the full permanent and part-time operational capacity to deal with a domestic revolutionary onslaught and the full capacity to launch communication operations and psychological warfare. It was the army’s view that, if a ‘third force’ was limited to dealing with unrest, it should be created as part of the SAP. If, however, it was intended to deal with the total revolutionary onslaught, it should resort under the SADF because of its greater and more sophisticated resources.

<sup>4</sup> ‘Third Force’ here refers to a ‘force’ which is established between the military (the 1st force) and the police (the 2nd force). It does not carry the same meanings as the notion of a ‘third force’ which developed currency in South Africa in the 1990s which intends to imply the covert use of violence.

50 Both proposals drew on models of counter-insurgency and counter-revolutionary warfare, rather than less militarised conceptions of public order policing. The overall tendency was to see crowd control and anti-terrorist action through the same lens and as paramilitary functions.

51 On 11 and 13 March 1986, the working group appears to have agreed that, rather than establishing a separate ‘third force’, the existing capacity of the SAP’s counter-insurgency and riot units would be expanded and re-organised. The group also recognised that whatever was decided in regard to this issue was not going to solve the problem of the *‘stygende rewolusionére bedreigingspiraal’* (escalating revolutionary threat spiral). It thus began to turn attention to the issue of creating a ‘special capacity’ to deal more broadly with the revolutionary onslaught. Overall co-ordination and monitoring were identified as particular gaps and there were a number of proposals: for a co-ordination centre or ‘war-room’; for the upgrading of the interdepartmental Security Committee (GVS, the Afrikaans acronym for the Joint Security Staff), and for the full activation of Joint Management Centres (JMCs) country-wide.

52 At the SSC meeting of 12 May 1986, where the proposals were tabled, the minutes note that the chairperson (Mr PW Botha) said that the security forces must work together on the establishment of a ‘third force’; that such a force must have a developed capacity to “effectively root out terrorists”; that it must be willing to be unpopular, even feared, and that the subversives must be dealt with using their own methods.

53 While many of the other proposals regarding co-ordination and monitoring were implemented, the ‘third force’ Botha wished for was not established. The minute of the SSC meeting of 8 May 1989 records that General de Witt reported that the “establishment of the municipal police and the extension of the SAP’s unrest unit did away with the need for the creation of a ‘third force’ ”.

54 In 1990, a similar proposal regarding the establishment of a ‘third force’ was raised but the proposal was again rejected by the security forces. An amended version of the idea was manifest in the creation of the Internal Stability Unit (ISU) in 1991 – a separate division of the police specifically tasked with public order functions, instead of a separate force outside of the police or army. The decision to create the ISU was announced in a 1991 speech by the then Minister Adriaan Vlok. He said that he expected the Unit to grow to a strength of 17 500 by

1997/98 – an indication that unrest was seen as a long-term feature of the South African policing landscape.

55 The ISU developed a reputation for abuses of power and the unaccountable behaviour of its members, which began to embarrass even senior police managers during the Peace Accord period. In a paradoxical twist of history, some township residents begin to call for troops, rather than the ISU, to patrol the townships.

### The legal framework for crowd control

56 The regulatory framework before the introduction of the Internal Security Act (1982) was extensive, severely limiting the opportunity to exercise freedom of assembly. The Riotous Assemblies Act (1930) enabled a magistrate, with the authorisation of the Minister of Justice, to prohibit a public gathering if s/he was of the opinion that it represented a serious threat to public peace. The Minister of Justice had wide (and practically unchallengeable) discretion to prohibit a particular public gathering from taking place or a particular person from attending a particular gathering. Further sections of the Act enabled the Minister to impose blanket bans on gatherings in any public place for such period as he specified. Once prohibited, mere attendance at such a prohibited gathering was not an offence, but all actions relating to the organisation of a prohibited gathering were criminalised. The Suppression of Communism Act (1967 & 1972) gave the Minister of Justice absolute administrative powers to prohibit a particular gathering or to ban gatherings in any area and for any period specified.

57 In 1976, the Minister of Justice imposed a blanket ban on all outdoor gatherings without permission of the Minister or a magistrate, renewed annually until April 1991. The Internal Security Act (1982) gave magistrates the right to prohibit all gatherings in their district for a period of forty-eight hours if they believed that the gathering would endanger public peace. Alternatively, the magistrate could allow a gathering to take place, but impose conditions on how it took place. The Minister used the Act to re-issue annual government notices prohibiting all outdoor gatherings except *bona fide* sporting and religious activities. Mere attendance at such a gathering constituted a criminal offence.

58 The Demonstrations In or Near Court Buildings Prohibitions Act 71 of 1982 was introduced specifically to prevent protests during political trials and against the treatment of persons held under security legislation. Other ‘technical’ pieces of legislation such as the National Roads Act 54 of 1971, the Trespass Act and by-

laws introduced under the Black Local Authorities Act (1982) were used by state authorities to restrict protest, including the use of pickets during labour disputes. Various city councils passed by-laws requiring, in addition to magisterial permission, council permission (frequently requiring punitive warrants of indemnity) for marches and gatherings.

59 The Public Safety Act (1953) allowed the commissioner of police to declare 'unrest areas'. Such declarations, widely used during the 1980s, gave the Commissioner the power to ban gatherings.

### **Legal provisions for the use of force on crowds**

60 Under the Riotous Assemblies Act (1956), police were allowed to disperse a gathering by force, provided that a police officer above the rank of head constable had given three warnings to the gathering that force would be used if they did not disperse. It also required that the force used should be proportionate to the need and that lethal force could be used only if other means had not proved successful or if death, serious injury or damage to valuable property had occurred or seemed likely.

61 The Internal Security Act (1982) authorised a police officer to order a crowd to disperse and to use force to compel obedience to this instruction. This authority applied equally to legal gatherings if violence occurred or appeared imminent. The dispersal command was supposed to contain a time period before force was used and stated that, where a valid instruction had been given and was disobeyed, the police officer "may order the police under his command to use proportionate force, including ... firearms and other legal weapons". Firearms and other lethal means "shall not ... be used to disperse a gathering", unless lesser means had proved ineffective and actual or imminent violence by the crowd to persons or property was likely.

62 The enforcement provisions of the Internal Security Act did not allow for means other than dispersal to deal with a prohibited gathering, ignoring the use of other international public order norms such as negotiation to encourage crowds to disperse. The experience during that period suggests that the police interpreted the provisions narrowly and did not feel that they had the legal authority to negotiate or adopt proactive approaches.

63 Public Safety Act (1953) provided indemnity against civil or criminal prosecution for members of security forces acting in good faith. In effect, the “regulations amount[ed] to a conferring of a broad discretion to kill or injure without legal consequences. The onus on the victim to show that a policeman acted in bad faith when he fired recklessly into a crowd, or failed to fire a warning shot, or neglected to use less drastic forms of ‘coercion’, is nearly insuperable”.<sup>5</sup>

64 Lethal force in the context of crowds and gatherings could be justified on two other legal grounds – the common law right to protect person or property and the right to use deadly force to effect an arrest under the Criminal Procedure Act (1977). Since the prohibitions on gatherings criminalised mere attendance, arrests at gatherings and the use of force in such situations were justified. Similarly, the use of force by the police often provoked the use of violence by members of the crowd, thus enabling the self-defence argument to apply.

### The use of force on crowds and gatherings

65 The SAP used riot control to enforce the restrictions on public assembly and association that were enshrined in the legislation of apartheid. The training and equipment of riot police and the deployment ratios of these police relative to the size of the crowds that they confronted were based on the assumption that crowds would be controlled and dispersed through the use of force.

66 Most victims of harsh police action were black. The SAP was associated with efforts not only to suppress political resistance, but to enforce the racist organisation of South African society. Moreover, state-controlled media assisted in promoting the view that a crowd of black people equated a ‘mob’, and a mob of black people was by nature barbaric and likely to engage in violence.

67 Submissions to the Commission have shown that political and police authorities actively encouraged the use of harsh and punitive methods and many police officers felt obliged to use maximum force. When police were accused of overstepping their extremely wide legal boundaries, they defended and covered up their actions. In addition to the indemnity provisions prevailing during the states of emergency, police accused of using excessive force could rely on the full support of their superiors, the silence of their peers (who would often be used as witnesses) and the indulgence of security-conscious judicial officers. Press restrictions ensured the absence of the media during dispersal and unrest situations, further shielding police actions from public censure.

<sup>5</sup> N Haysom, ‘License to Kill, Part 1: The SAP and the use of deadly force’, SAJHR 1989, p. 6.

ON THE BASIS OF THE ABOVE AND THE MANY HUNDREDS OF STATEMENTS FROM VICTIMS OF PUBLIC ORDER POLICING, THE COMMISSION FINDS THAT, IN RESPECT OF PUBLIC ORDER POLICING, THE SAP, SPECIFICALLY ITS CROWD-CONTROL DIVISIONS (THE RIOT AND INTERNAL STABILITY UNITS), DISPLAYED A GROSS DISREGARD FOR THE LIVES AND/OR PHYSICAL WELL-BEING OF BOTH THOSE ENGAGED IN POLITICAL ACTIVITY AS WELL AS THE GENERAL PUBLIC. THIS WAS MANIFESTED IN A TENDENCY, OFTEN THE RESULT OF HIGH-LEVEL POLITICAL PRESSURE, TO RESORT TO THE USE OF DEADLY FORCE IN SITUATIONS WHERE LESSER MEASURES WOULD HAVE SUFFICIENT FOR THE RESTORATION OR MAINTENANCE OF PUBLIC ORDER. THE CONSEQUENCE WAS THE NEEDLESS DEATHS OF AND INJURIES TO COUNTLESS CIVILIANS. THESE DEATHS AND INJURIES CONSTITUTED A SYSTEMATIC PATTERN OF ABUSE, AND WERE GROSS VIOLATIONS OF HUMAN RIGHTS.

THE COMMISSION FINDS THAT THIS USE OF DEADLY FORCE WAS THE PRODUCT OF THE RACISM AT THE CORE OF THE SOUTH AFRICAN POLITICAL ORDER IN THE MANDATE ERA, AIDED AND ABETTED BY INAPPROPRIATE TRAINING, POOR AND INAPPROPRIATE RESOURCING AND A WIDE-SPREAD LACK OF ACCOUNTABILITY ON THE PART OF THE SECURITY FORCES FOR ACTIONS DIRECTED AT BLACK SOUTH AFRICANS.

THE COMMISSION FINDS THE FOLLOWING TO BE DIRECTLY ACCOUNTABLE FOR THE GROSS VIOLATIONS OF HUMAN RIGHTS COMMITTED IN THE COURSE OF PUBLIC ORDER POLICING: MINISTERS OF POLICE/LAW AND ORDER; COMMISSIONERS OF POLICE; THE COMMANDING OFFICERS OF RIOT/INTERNAL STABILITY UNITS. FURTHER, THE COMMISSION FINDS THE CABINET DIRECTLY RESPONSIBLE FOR THE EXCESSIVE USE OF FORCE DURING THE 1976 UNREST AND INDIRECTLY RESPONSIBLE DURING OTHER PERIODS OF SOCIAL UPHEAVAL.

## Auxiliary forces

- 68 The collapse of Black Local Authorities (BLAs) and the climate of 'ungovernability' from 1985 saw an expansion of police capacity, demonstrated by the introduction of auxiliary forces, municipal police and special constables into black townships – a cheap way of bolstering the presence of the security forces and defending the BLAs. In line with the adopted strategies of contra-mobilisation, these forces were recruited from the communities they would return to police.
- 69 Special constables were created according to the Malaysian model of counter-revolutionary warfare, popularised by American counter-insurgency theorist James McCuen. They drew too from the Rhodesian experience. A paper by Major General FMA Steenkamp from SAP headquarters points to the successful deployment of local militias in Rhodesia to regain and protect the *status quo*.

*An effective physical counter to the tyranny of the 'comrades' should be established from the ranks of the blacks themselves ... the necessity for and value of such an auxiliary service is apparent from research done into the role played by the 'Security Forces Auxiliaries' in Rhodesia and the battle against the revolutionary war over there. [Commission translation.]*

70 Former SAP captain Brian Mitchell [AM2586/96] told the Commission that the function of special constables was to win back areas and towns lost to the ANC/UDF and to act as "a physical wedge against the 'tyranny of the comrades'".

71 Special constables, also known colloquially as '*kitskonstabels*' (instant police), 'blue lines', or '*bloupakke*', were recruited from urban and rural areas, and were usually unemployed African men with few educational qualifications. Many were illiterate and some had criminal convictions. Training for special constables commenced in September 1986 at the SAP's Koeberg facility outside Cape Town. Initially only six weeks, the training course was later increased to three months. The training was perfunctory and involved only one seven-hour course in *onlusdril* (riot drill). The Commission received evidence from former special constables that the training, given by senior Security Branch officers, presented the ANC/UDF as the enemy to be suppressed.

72 Although trained for three months and thereafter paid by the SAP, municipal police (known as 'greenflies', 'greenbeans' or '*amaTshaka*') were attached to the BLAs, initially falling under the Department of Constitutional Development. In 1989 they were incorporated into the SAP.

73 It is estimated that, by the end of the 1980s, approximately 8 000 special constables and 14 000 municipal police had been recruited, trained and deployed in urban and rural towns across the country where unrest was strongest.<sup>6</sup> Special constables were usually attached to local riot squads. Their powers were largely the same as ordinary SAP and included the state of emergency powers granted to all security forces. They were, however, at the very bottom of the police hierarchy. Wages and working conditions were poor and there were several strikes and desertions from the ranks.

74 Special constables and municipal policemen rapidly became associated with numerous violations both on and off duty, and were the subject of several interdicts. It was reported to Parliament in April 1988 that, since August 1987, 349 municipal police had been charged with crimes including murder, robbery, assault, theft, and rape.

75 A former member of the Pietermaritzburg Riot Unit told the Commission that "the special constables was one of the biggest mistakes the police ever made". Two former police officers told the Commission that:

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<sup>6</sup> 'The Apparatus of State-Orchestrated Violence in Apartheid South Africa' Report prepared by the Civilian Support Component, Investigation Task Unit, February 1997.

*The special constables were the biggest nonsense introduced by the state. They caused even more problems. They shot people unnecessarily. They were drunk on duty and rude most of the time. The problem was that they did not receive enough training ... They were wild. The problem was that they were uneducated, but given guns and a high position. (Commission interviews, Oudtshoorn.)*

- 76 The types of gross human rights violations attributed to the special constables and municipal policemen include *sjambokkings*, beatings with gun butts, general assault, injury by shooting, killing by shooting, torture in custody, sexual assault and harassment, and theft. High levels of excessive and inappropriate use of violence, often arising out of drunken behaviour, ill-discipline and personal vendettas, were reported. They retained the use of shotguns even off-duty.
- 77 Special constables were also the target of attack by both civilian internal opposition groups and the armed forces of the liberation movements. Several killings or attacks on special constables and municipal policemen from late 1986 to 1989 are reported in secondary sources. Few statements were received by the Commission in this regard.

#### ***Special constables in the western Cape***

- 78 Special constables were deployed in the African townships of Cape Town from October 1986. Most were recruited from the pro-government '*witdoeke*' camps of Crossroads and Khayelitsha. A group of about ninety special constables, based at the Nyanga police station, were sent out on foot patrols, armed with shotguns.
- 79 In December 1986, the Black City squatter camp was twice raided, after which numbers of residents were arrested and severely assaulted. In June 1987, the UDF-affiliated Cape Youth Congress (CAYCO) applied for and was granted an urgent Supreme Court interdict after *affidavits* alleged torture, harassment, intimidation, assault, theft and sexual abuse committed by special constables. Indoor CAYCO meetings in KTC had been violently broken up and those arrested were brutally assaulted and tortured at the Nyanga police station.
- 80 Special constables were co-opted into the political and physical defence of the leadership of the pro-government squatter camps run by *witdoeke*, Mr Johnson Ngxobongwana and Mr Mali Hoza in Crossroads and Khayelitsha respectively.

Hoza had two special constables deployed as '*Hoza wagte*' (Hoza's guards) for his personal use in 1989. 1987 JMC minutes record the deployment of several special constables as 'guards' for Ngxobongwana.

- 81 In rural areas, incidents of violence became common following the deployment of groups of between ten and twenty special constables or municipal police from early 1987.
- 82 In Beaufort West Mr Sidney Yabo [CT00358/BEA] was shot and blinded in June and Mr Jan Molowitz [CT00361/BEA] was shot and injured in July 1987. On 3 December 1988 Mr Thabo Abraham Metsing [CT00360/BEA] was shot and seriously injured by an allegedly drunk special constable who was then himself killed. On 1 January 1988 two residents, including thirteen-year-old Jerry Msindisi Ndishi [CT00565/BEA], were shot dead returning from a New Year's church service.
- 83 In De Aar, Mr Andile Tantsi and Mr Sizakele Mbekhushe [CT00555/KAR] were shot dead by special constables in 1989. No charges followed these deaths. Instead, those present at the killing of Mbekhushe were themselves charged with public violence and attempted murder. In Nupoort Mr Thembekile Mgweba [CT01500/KAR] and one other were shot dead on 14 December 1986. Mr Zenzile Dyantyi [CT01523/KAR] was shot and then assaulted in September 1987.
- 84 At the Commission's public hearings in Upington, municipal policeman Nicholas Makandile 'Oupa' Links voluntarily testified to killing Mr Elliot Mbulelo Jonga [CT01417/UPI] on 31 December 1985. He applied for amnesty for the killing [AM5923/97], expressing deep sorrow and regret and stating that his SAP colleagues had congratulated him on his first killing.
- 85 Several interdicts against special constables were applied for by and granted to individuals, organisations and whole communities, including CAYCO in KTC, Cape Town, six residents of Aberdeen, and the Midlands Council of Churches in Hofmeyr. Upington residents obtained an interdict against the municipal police.
- 86 After widespread violations by sixteen special constables in Oudtshoorn, the Bongolethu Civic Association (BHOCA) applied for a Supreme Court interdict in July 1987 preventing the special constables from assaulting residents. The application detailed assaults, harassment, abuse of power, drunken behaviour and personal vendettas on residents. Despite a police undertaking to desist from such abuses, violence continued and included the shooting of Ms Lindiwe Phillips [CT05701/GEO] and journalist Patrick Nyuka.

87 On 16 January 1988 a special constable, with other SAP members, killed Mr Soysisile Douse [CT00328/GEO], Mr Selwyn Botha [CT05601/GEO] and Mr Johnny Karelse [CT00351/GEO] in an alleged ‘shooting spree’ after a special constable had been stabbed to death in a shebeen. Their funerals were then restricted. An urgent second interdict restraining the special constables was granted thereafter.

### ***Special constables in KwaZulu/Natal***

88 From 1988, special constables were used to bolster Inkatha in areas around Pietermaritzburg and the Natal Midlands. They were also used to attack UDF supporters. In January 1988, 300 Inkatha supporters were sent for special constable training at Koeberg.<sup>7</sup> The group included 130 of those who had been given military training in the Caprivi through the SADF’s *Operation Marion* and was associated with unlawful acts, perpetrated either alone or in concert with the Riot Unit and Inkatha supporters. Examples are to be found in the Trust Feed killings in 1988 and the Seven Day War in 1990 (see Volume Three).

89 The recruitment and deployment of special constables in the KwaZulu/Natal area provided an overt armed capacity for Inkatha, as opposed to the covert capacity provided by *Operation Marion*. The Commission obtained evidence that Inkatha membership became a criterion for recruitment. Former police constable William Harrington of the Riot Unit said that all applications by people to work as special constables had to be counter-signed by an Inkatha chief (*sic*) and by another Inkatha person.

90 Special constables in several areas appear to have been recruited into hit squads. For example, in the post-1990 period, both former and serving special constables were implicated in widespread anonymous ‘balaclava’ killings and attacks in the western Cape, at the behest of town councillors.

**THE COMMISSION FINDS THAT SPECIAL CONSTABLES CONSTITUTED A PARTICULARLY POORLY TRAINED AND ILL-DISCIPLINED SECTOR OF THE SECURITY FORCES. THEIR DEPLOYMENT WAS SOON FOLLOWED BY KILLINGS, SEVERE ILL TREATMENT AND TORTURE, AS WELL AS CRIMINAL ACTS. THEIR COMMANDING OFFICERS IN THE POLICE TOOK NO VISIBLE STEPS TO CONTROL THEIR ACTIONS IN ANY MEANINGFUL WAY, DESPITE PUBLIC ALLEGATIONS AND COURT INTERDICTS CONCERNING THEIR BEHAVIOUR. THE COMMISSION FURTHER HAS EVIDENCE THAT IN CERTAIN AREAS OF THE COUNTRY THE RIOT UNITS ACTED IN CONCERT WITH SPECIAL CONSTABLES IN THE PERPETRATION OF GROSS HUMAN RIGHTS VIOLATIONS.**

<sup>7</sup> Law and Order Minister Adriaan Vlok’s press secretary explained that “police were not allowed to take part in any extremist organisations like the UDF or the AWB, but could be part of an organisation like Inkatha”. Quoted in Brian Mitchell’s amnesty application.

THE COMMISSION FINDS THAT SPECIAL CONSTABLES AND MUNICIPAL POLICE SERVED TO PROVIDE AN ARMED CAPACITY TO THOSE PRO-GOVERNMENT INDIVIDUALS OR GROUPINGS THAT THE STATE SOUGHT TO DEFEND AND PROMOTE, PARTICULARLY INKATHA.

THE COMMISSION FINDS THAT SPECIAL CONSTABLES AND MUNICIPAL POLICE WERE A PARTICULARLY VULNERABLE SECTOR OF THE SECURITY FORCES AND WERE THEMSELVES THE TARGETS OF VIOLENCE, RESULTING IN INJURIES, DEATHS AND THE DESTRUCTION OF PROPERTY. WHEN THIS OCCURRED, AND THEIR OWN RIGHTS WERE VIOLATED, THEY DID NOT BENEFIT FROM THE SAME DEGREE OF PROTECTION AND INSURANCE AS THE REGULAR MEMBERS OF THE SAP.

THE COMMISSION FINDS THAT THE SPECIAL CONSTABLES COMMITTED GROSS HUMAN RIGHTS VIOLATIONS ON A WIDE SCALE, INCLUDING KILLING, ATTEMPTED KILLING, TORTURE, ARSON AND SEVERE ILL TREATMENT, AND THAT THESE VIOLATIONS WERE PART OF A SYSTEMATIC PATTERN OF ABUSE FOR WHICH THE FORMER GOVERNMENT AND IN PARTICULAR THE MINISTER OF LAW AND ORDER AND THE COMMISSIONER OF POLICE, ARE ACCOUNTABLE.

## ■ **TORTURE AND DEATH IN CUSTODY**

- 91 The period 1960 to 1994 saw the systematic and extensive use of detention without trial in South Africa. Such detention was frequently conducive to the commission of gross abuses of human rights. The Human Rights Committee estimated the number of detentions between 1960 and 1990 at approximately 80 000, of which about 10 000 were women and 15 000 children and youths under the age of 18. Detention without trial represented the first line of defence of the security forces. It was only when this strategy began to fail that the killing of political opponents increased.
- 92 Allegations of torture of detainees form a large percentage of all violations reported to the Commission. Most people who told the Commission they had been detained said also that they had been subjected to some form of assault or torture associated with detention.
- 93 Evidence before the Commission shows that torture was used systematically by the Security Branch, both as a means of obtaining information and of terrorising detainees and activists. Torture was not confined to particular police stations, particular regions or particular individual police officers – although certain individuals' names came up repeatedly. Torture was used by the security police and by other elements of the security forces, including the Reaction Unit, the Municipal Police, the CID and, to some extent, by the military intelligence unit of the SADF.
- 94 Many former detainees who experienced torture did not come forward to make statements to the Commission. At least one of the reasons for this was the

deep shame and humiliation often associated with the experience of torture, something the security police understood well and exploited. Describing how he *sjambokked* (whipped) Mr Mkhusele Jack [EC0006/96PLZ], former Security Branch member Gideon Nieuwoudt [AM3920/96] said during his amnesty hearing that torture "was one way to diminish his resistance and it also would have been very bad for him, because I was treating him like a child. I was giving him a hiding."

95 The more severe the torture, the more vulnerable the detainee and the greater the silence. Extreme torture such as electric shocks or suffocation frequently resulted in loss of bladder or bowel control that detainees found painfully degrading. Some individuals gave in under pressure of torture and gave evidence against their former comrades. Often such detainees remained silent because of feelings of intense guilt.

96 Ms Zubeida Jaffer [CT00776/HEL] described her guilt and shame after she revealed a single piece of information:

*They said "Zubeida, if you don't co-operate with us and give us the answers, then we are going to detain your father". I thought that they were just trying to trick me again, but they called me to the phone and it was my father on the phone. They had detained him in Cape Town. And so after they put the phone down, I signed the statement and I told them the name of the journalist who had done the story.*

*It completely humiliated me. It completely made me feel like I was worthless, that I had gone against everything that I stood for, that I believed in, and that I'd been too weak to withstand the pressure of this. I was never able to overcome it for many, many years.*

97 Similarly, Ms Zahrah Narkedien [JB04418/99OVE] (formerly Greta Apelgren), detained in connection with the Magoo's Bar bomb, testified:

*They tortured me for those seven days and the only thing that really made me break in the end was when they threatened to ... kidnap my four-year-old nephew, Christopher, bring him to the 13th floor and drop him out the window ... I felt I could risk my life and I could let my body just be handed over to these men to do what they liked, but I couldn't hand over someone else's body so at that point I co-operated.*

98 Even where detainees did not give information, the mere fact of having broken down and screamed or pleaded for mercy left many unable to speak of their

experiences. Mr Laloo Chiba [JB00667/01GTSOW], who withstood two bouts of interrogation without answering questions, described his feelings thus:

*I had screamed out in pain. I had pleaded for mercy from ... a people's enemy ... I had given them the pleasure of listening to my screams and it is something that haunts me up till today.*

- 99 The 'silence of vulnerability' was the greater when sexual forms of torture were used. The Commission is aware of individual deponents who made statements about other forms of torture but were unable to discuss their experience of sexual torture.
- 100 Moreover, the example held up by individual activists and in organisations that a 'good comrade' never broke exacerbated the sense of shame and vulnerability of those who had agreed to give the information their interrogators were seeking. The experience of custody, detention and interrogation, involving torture or not, was a threatening one. Different detainees responded in different ways.
- 101 The Commission believes that the harsh judgments meted out to those who may have given information in the past is inhumane and recommends that those who have been cruelly cut off by failing to meet up to such exacting standards be reintegrated into society.

## **Methods of torture**

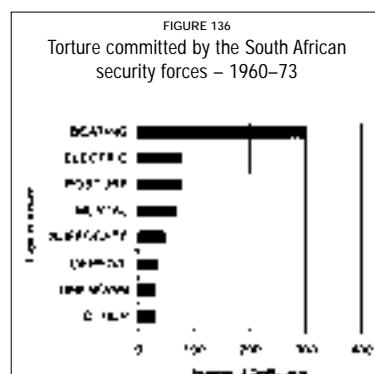
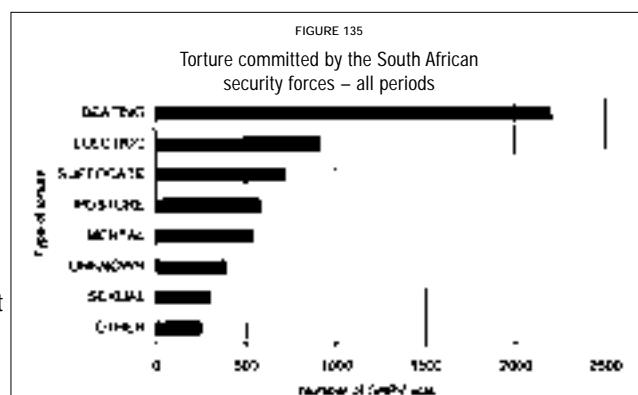
- 102 The Commission accepted the following internationally accepted definition of torture:

*The intentional infliction of severe pain and suffering, whether physical or mental, on a person for the purpose of (1) obtaining from that or another person information or a confession, or (2) punishing him for an act that he or a third person committed or is suspected of having committed, or (3) intimidating him or a third person, or (4) for any reason based on discrimination of any kind. Pain or suffering that arises only from, inherent in, or incidental to, a lawful sanction does not qualify as torture.<sup>8</sup>*

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<sup>8</sup> Article 1(1), Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

103 The cases of torture presented to the Commission included a wide range of physical and psychological types. The following graphs indicate the extent to which different techniques of torture were used:



104 Beating was the most commonly used form of torture. The Commission did not distinguish between beating detainees as a form of torture and what appears to have been a routine practice of beating and assault at the point of arrest. The latter was used to instil terror and to 'soften people up' before questioning and appears to have been widely and routinely used. This section, however, concentrates mainly on the use of torture to extract information or as a means of recruitment of informers.



105 A range of other techniques were regularly used. Suffocation as a form of torture increased significantly from 1975 to the end of the Commission's mandate period, when it became the third most common form of torture.

106 Mr Rajeegopal Vandeyar [JB00809/01GTSOW] told the Commission of the torture he experienced while in the custody of the police:

*There were a number of policemen, some in uniform, some not, most visibly armed ... They began assaulting me, kicking and punching me, hitting me with gun butts. The policemen were all involved in some way or another as I was beaten from 'pillar to post'. At regular intervals I lost consciousness. They threw water on me to revive me. They kept asking me in derogatory terms – ie calling me "Coolie" ... Lieutenant van Wyk and Rooi Rus Swanepoel were particularly [vicious] ... A certain Major Brits was also present throughout, but did not lay a finger on me. He was in charge of the investigation.*

107 Mr Ndovela Nxasana [EC0578/96ETK] was arrested in 1960 and kept at the Mkhambathi forest detention camp during the Pondoland uprising. He was one of the first people in the mandate period to describe electric shock torture. Mr Abdulhay Jassat [JB00184/01GTSOW] was also subjected to electric shocks while in police custody:

*A hessian bag was put over my head and ... it was tied at my knees ... They then lay me on the floor ... they started ... untying my shoes, shoelaces and removing my socks and I could feel them fiddling around with my big toes. Then I was told I had better start talking otherwise they were going to give me electric shock treatment ... They would torture for about ... thirty seconds to a minute. Then they would stop, ask you a question, when you refused to answer they would say we are increasing it ... They went on until eventually they went up to 220 or 225 volts. Then they untied the electrodes from my toes and they lifted me up, removed the hessian bag and told me to stand on the floor without touching anything. I wasn't able to stand. My body was completely stiff so I tried to lean against the table, and when I did that they came with a ruler or some instrument and just rapped me on my knuckles ...*

108 Former member of the Durban Riot Unit Sergeant Frank Bennetts [AM4059/96] described the technique from the torturer's side during a section 29 hearing:

*I did make use of a shocking device ... They were available from anyone at Telkom. I can go fetch you one now ... It was an old crank telephone ... and you'd take two wires – well, the best one was just two keys, I presume, was the best way to do it. Just a normal key with a hole in the top. Tie a key on to each wire. The guy's got a hood over his head. Dangle them so that they touch the palms of his hands. When the first shock goes through his hands close and he can't open them again. While you keep turning the handle, he can't let go of it.*

109 Forced postures or body positions were also used as a form of torture, sometimes involving the participation of the victim, thus inflicting psychological as well as physical stress. Examples included forcing the detainee to stand on a piece of foolscap piece of paper for hours, sometimes days, on end; forcing the detainee to balance on a brick or two bricks or to sit in an imaginary chair for hours on end; forcing the detainee to hold an object above her/his head. Other techniques were imposed by force. These included the 'helicopter' technique which involved manacling detainees' hands above their heads or hanging them upside down for lengthy periods.

110 Mr Archibald Patuleni [EC2636/97KWT], detained in March 1963, experienced the imaginary chair torture:

*I knew Charles Sebe because he was a Special Branch ... He told me that I would sit in a government chair, so I must not break it ... It meant to put yourself in suspension as if you're sitting on a chair. When I became tired, I fell. He started punching me ... He then handcuffed me from behind. I praised him, calling him 'Tshawe', begging him to stop. He gave me a good punch on my face.*

111 Frank Bennetts described, again from the torturer's side, the method referred to as 'the helicopter', 'boeing' or 'aeroplane':

*They would handcuff his feet together round the ankles and handcuff his hands behind his back and then place him on his stomach with his feet in the air and put a broom stick or quite a strong plank of wood between his ankles and then through his legs coming out the top here and pick him up and hang him between two desks like that. The result was similar to crucifixion. It pulled all your muscles. It closed up your chest. You couldn't breathe. Leave the guy there long enough, he's going to talk.*

112 Former Security Branch member Jeffrey Benzien [AM5314/97] described and demonstrated one form of suffocation during his amnesty application:

*... it would be a cloth bag that would be submerged in water to get it completely wet ... I get the person to lie down on the ground on his stomach ... with that person's hands handcuffed behind his back. Then I would take up a position in the small of the person's back, put my feet through between his arms to maintain my balance and then pull the bag over the person's head and twist it closed around the neck in that way, cutting off the air supply to the person ... On occasions people have, I presume, and I say presume,*

*lost consciousness. They would go slack and every time that was done, I would release the bag.*

113 Asked what the reactions of the person being suffocated were, Benzien replied:

*There would be movement, there would be head movement, distress. All the time there would be questions asked – “Do you want to speak?” ... and as soon as an indication was given that this person wanted to speak, the air would be allowed back ... the person would moan, cry ...*

114 Benzien claimed that, with few exceptions, this method yielded results within half an hour.

115 Cases of sexual torture included forcing detainees (both male and female) to undress; the deliberate targeting of genitals or breasts during torture; the threat of and, in some instances, actual rape of detainees (male and female); the insertion of objects such as batons or pistols into bodily orifices and placing detainees overnight in cells with common-law prisoners known to rape newcomers. Ms Ntombizanele Zingxondo [CT00860/BEA] testified:

*They unbuttoned my shirt, and pulled my breast out of my bra. They emptied one drawer and my breast was squeezed in the drawer. They did this several times on each breast until white sticky stuff burst out of the nipples of my breast.*

*One evening while I was sleeping, a white policeman was opening the doors ... he was alone. He pulled the blankets off me – ordered me to take off my clothes. I refused and we struggled ... I kept on yelling ... The policeman let go, then ... left.*

116 Fourteen-year-old Patrick Mzathi [CT06108/GEO] experienced the male version of the drawer method: “They put my penis and my testicles into a drawer, it was the first time I experienced a pain of my private parts. I went unconscious.”

117 Aside from sexual forms of torture, security police frequently targeted women in ways related to their gender or as mothers (see also the chapter on *Women* in Volume Four). Ms Nobuhle Mohapi [EC0007/96PLZ] told the Commission:

*The first month of my detention, I didn't get a drop of water to wash myself. I was unable to change and I was in my menstrual cycle ... I requested water so that I can bathe and wash myself, but nobody wanted to help me*

*... I stayed six months in solitary confinement ... and they would come and report some of the things that are happening at home. They even came and told me that my youngest child is dead. They promised to release me so that I can attend the funeral ... [if] I should sign this paper.*

118 Ms Shirley Gunn [CT00792/HEL] was detained at the Wynberg police station in Cape Town along with her sixteen-month-old unweaned son. The hygienic conditions were inadequate and the cell was drafty and cold. Social workers took her son away for a period of eight days. During this time police played a tape of his crying in order to put pressure on her.

119 The Commission received numerous statements detailing the effects of solitary confinement on detainees. Ms Zahrah Narkedien [JB04418/99OVE] describes the experience of being held in isolation in a cell the size of a small bathroom for seven months:

*I don't even want to describe psychologically what I had to do to survive down there. I will write it one day but I could never tell you. It did teach me something and that is that no human being can live alone for more than I think a month ... The basement ... was ... at the bottom with high walls. I felt as the months went by that I was going deeper and deeper into the ground ... I became so psychologically damaged that I used to feel that all these cells are all like coffins and there were all dead people in there, because they were not there, no one was there. It was as if I was alive and all these people were dead ...*

*I'm out of prison now for more than seven or ten years but I haven't recovered and I will never recover ... I have tried to and the more I struggle to be normal, the more disturbed I become. I had to accept that I was damaged, a part of my soul was eaten away as if by maggots ... and I will never get it back again.*

### **The use of torture in the arrest and interrogation of detainees**

120 The security legislation providing for detention during the mandate period was as follows:

- a Detention for interrogation: section 21 of General Laws Amendment Act (1963); section 6 of Terrorism Act (1967); and section 29 of Internal Security Act (1982).
- b Preventative detention: section 10 of Internal Security Act (1950); section 28 of Internal Security Act (1982).

- c Short-term detention: section 22 of General Law Amendment Act (1966); section 50 of Internal Security Act (1982).
- d Detention of state witnesses: section 12 of the Suppression of Communism Act (1950); Criminal Procedures Act (1965); section 31 of Internal Security Act (1982).
- e State of emergency detention: Public Safety Act (1953); Proclamation R121 (1985).

121 Torture of political detainees was reported from the early 1960s. That torture of political detainees was a relatively new phenomenon during that period is evident from the following statement by Mr Joe Slovo:

*However firm the old type of policemen were ... they were not torturers ... In a sense, up to about 1960/1, the underground struggle was fought on a gentlemanly terrain. There was still a rule of law. You had a fair trial in their courts. Nobody could be kept in isolation. Up to 1963, I know of no incident of any political prisoner being tortured.<sup>9</sup>*

122 It was widely believed by many political activists of the time that, in the early 1960s, a special squad of security policemen received special training in torture techniques in France and Algeria and that this accounted for a sudden and dramatic increase in torture. The Commission established that the following officers received training in France at some point during the first half of the 1960s: Hendrik van den Bergh (then head of the Security Branch), TJ 'Rooi Rus' Swanepoel, DK Genis, Lieutenant Daantjie 'Kardoesbroek' Rossouw, G Klindt, a Major Brits (from the Railway Police), a Lieutenant van der Merwe and one Coetze.

123 However, the Commission found considerable evidence of the occurrence of torture in the years prior to 1963. While torture does not appear to have been used on urban-based, ANC political detainees until 1963, the Commission received information about the extensive use of *all* forms torture on rural insurgents involved in the Pondoland revolt in 1960 and against members and supporters of the *Pogo* movement of the PAC. Further, it is clear that such methods were widely used in criminal investigations before the 1960s.

124 It is more likely, therefore, that the French training promoted the development of other non-physical third degree methods. Indeed, in 1964, there was a marked shift to an approach in which teams working in relays used sleep deprivation

<sup>9</sup> Quoted in Thomas G Karis and Gail M Gerhardt, *From Protest to Challenge: A Documentary History of African Politics in SA, 1882–1990. Volume 5 – Nadir and Resurgence, 1964–1969*, p.25 or 26.

and non-physical means such as standing on one spot or the 'hard/soft cop' routine. It is probable that the techniques apparent in the 1964 period were the fruit of the French exercise.

- 125 The Commission received confirmation that a number of officers received further training in interrogation and counter-interrogation techniques in France in about 1968. Officers known to have attended this course include: TJ 'Rooi Rus' Swanepoel, Major JJ 'Blackie' de Swardt, Hans Gloy, Roelf van Rensberg and Dries Verwey.
- 126 It is further believed that, in the early 1980s, joint co-operation agreements between South Africa, Argentina, Chile and Taiwan led to further training opportunities and an exchange of ideas and experience. Close links with Argentina existed even before this. For example, Alfredo Astiz, a notorious torturer, was one of four torture experts attached to the Argentinian Embassy in Pretoria in 1979. During his stay, there were several seminars at which South African security police and the Argentines exchanged ideas regarding methods of interrogation.
- 127 It is also known that Military Intelligence (MI) operatives received training in interrogation techniques in Italy. According to one MI operative, such training tended to focus on non-aggressive methods of interrogation as the use of torture was seen to result in false confessions or information.
- 128 Finally, the training grounds *par excellence* were Rhodesia and South West Africa where South African police developed hands-on experience in fighting a counter-insurgency war.
- 129 Following the general failure of the Security Branch to conclude investigations in sabotage cases in the early 1960s, a tougher approach was adopted and a group of police was drawn in from outside the ranks of the Security Branch to constitute a special 'sabotage squad'. This was part of a more extensive restructuring of legal provisions relating to detentions and police structures introduced by the new Minister of Justice, Police and Prisons, Mr BJ Vorster, his new commissioner of police, Lieutenant General Keevy and new head of the Security Branch, Colonel Hendrik van den Bergh. An SAP *Commemorative Album* records that:

*Col van den Bergh decided that the Security Branch should be reorganised to enable it to deal more efficiently with subversive elements in the Republic. The Minister of Justice, who was fully aware of the threat against the Republic,*

*agreed with Col van den Bergh and undertook to supply the Security Branch with the necessary arms to ward off the onslaught.<sup>10</sup>*

130 The ‘sabotage squad’ was one of these “necessary arms”. Officers associated with this squad include: Major TJ ‘Rooi Rus’ Swanepoel, Major George Klindt, a Major Coetzee, Major Britz, Lieutenant DK Genis, ‘Kardoesbroek’ Rossouw and a Captain or Major JJ van der Merwe. Others who appeared to form part of this team, or who worked closely with them, include Warrant Officer ‘Spyker’ van Wyk, Captain JJ Viktor, Lieutenant Petrus Ferreira, Lieutenant Erasmus, Lieutenant and/or Captain van Rensberg and Sergeant Greeff. Their approach contrasted sharply with the ‘gentlemanly approach’ of earlier Security Branch men.

131 Arrests of people linked to sabotage campaigns increased markedly in 1963 and the Commission received reports of torture in respect of nearly every detainee interrogated by members of this team. Reports exposed the widespread use of beating, electric shock and terror tactics (see below).

132 The first allegations of torture of political detainees arose during the state of emergency declared on 24 March 1960. According to the Minister of Justice, ninety-eight whites, thirty-six coloureds, ninety Indians and 11 279 Africans were detained under the Public Safety Act of 1953. From statements received by the Commission, it appears as though detainees were routinely subjected to beating and other forms of assault. Several Pondoland detainees reported the use of electric shock and torture involving forced posture.

133 A second wave of torture allegations came from Poqo members detained under the General Laws Amendment Act of 1961. The main form of torture remained beatings and general assault, although again instances of electric shock and forced posture were reported.

134 With the introduction of the ninety-day detention clause provided for by the General Laws Amendment Act of 1963 that torture became far more prevalent. Section 17 authorised any commissioned officer to detain without a warrant any person suspected of political activities and to hold them in solitary confinement, without access to a lawyer, for ninety days. In practice, people were often released after ninety days only to be re-detained on the same day for a further ninety-day period. The Minister of Justice said the intention was to detain uncooperative persons “until this side of eternity”<sup>11</sup>. Ms Helen Suzman was the only Member of Parliament to vote against the amendment.

<sup>10</sup> Marius de Witt Dippenaar, SAP Commemorative Album, p. 308.

<sup>11</sup> SAP Commemorative Album, p. 12.

135 The ninety-day law came into effect on 1 May 1963 and the first detentions took place eight days later. Between 1 May 1963 and 10 January 1965, when it was withdrawn and replaced with a 180-day detention law, it was used to detain 1 095 people, of whom 575 were charged and 272 convicted.

136 In the course of these detentions, torture went far beyond a routine level of physical assault; carefully honed techniques were put to use, designed primarily to extract information. By the end of January 1964, Minister Vorster conceded in Parliament that forty-nine complaints had been received concerning ill treatment and torture, including twenty-eight allegations of assault and twenty of electric shock. He reported that thirty-two had been investigated and found to be of no substance. Nevertheless, accounts of torture from this period – across region, rank and organisation – bear a remarkable consistency.

137 Mr Laloo Chiba [JB00667/016GTSOW] told the Commission about what appears from other statements to have been a routine experience:

*There were about five or six people who were actually present in the room. They started assaulting me, punched me, kicked me and in the process my face was badly bruised. My left eardrum had been punctured. They wanted to know who my contact was in MK ... I pleaded ignorance ... The assault must have lasted half an hour or so. It is very, very difficult for me to assess the passage of time in these circumstances. But what was to follow was far more serious ...*

138 Chiba, covered with a wet hessian sack, was then subjected to electric shock treatment:

*Every time I resisted answering the questions, they turned on the dynamo and of course, violent electric shocks started passing through my body ... After the electric torture was over, I was unable to walk, I collapsed. They then carried me out.*

139 Mr Rajeegopal Vandeyar [JB00809/01GTSOW] described Chiba's condition following this session:

*His face was swollen severely. His eyes appeared to be coming out of their sockets. He was walking with great difficulty and was supported by a policeman. His legs were rigid. His knees did not bend. His hands were almost like he had severe arthritis. He looked like a Frankenstein monster.*

140 Other methods of torture used included being dangled from the window, a range of psychological threats and, particularly from 1964, a combination of solitary confinement, sleep deprivation and forced standing, often for days on end.

141 Laloo Chiba, detained again in July 1964, gives his account of this new method:

*I was assured that, unlike the previous time, they won't even lay a finger on me. What they did was, they took a foolscap sheet of paper, A4 size, they put it on the floor and they asked me to stand on that. They said that I was not allowed to move off from that sheet of paper ... I stood there from about nine o'clock on Monday morning until Wednesday early in the evening, late in the afternoon. That was a period of approximately fifty-eight to sixty hours without sleep.*

142 The Security Branch worked in teams, ensuring that they were always fresh and clean, in sharp contrast to the exhausted detainees. Teams would also frequently alternate between apparently sympathetic police and those who displayed extreme aggression. Such methods, which left no mark, proved devastatingly effective in extracting confessions. It is important to note, however, that physical violence and electric shock continued to be used as well, particularly against less high-profile African detainees.

143 Section 17 of the General Laws Amendment Act was revoked as of 11 January 1965. The Minister of Justice said that it would be re-invoked should the need arise. The Criminal Procedure Amendment Act was enacted in the same year. This provided for 180-day detention and re-detention thereafter. Detainees could be held in solitary confinement but, unlike the ninety-day provision, interrogation was not specified as part of the detention. Nevertheless, it appears that the 180-day provision was used for interrogation as well.

144 In response to guerrilla activities on the northern borders of South West Africa, the General Laws Amendment Act was amended in 1966 to provide for up to fourteen days' detention of suspected 'terrorists' for interrogation purposes. The commissioner of police could apply to a judge to have the detention order renewed. This clause was a forerunner of the Terrorism Act (1967) which authorised indefinite detention without trial on the authority of a policeman of or above the rank of Lieutenant Colonel. The definition of terrorism was very broad. No time limit was specified for detention, which could be continued until detainees had satisfactorily replied to all questions. Detentions under the Act were generally for the purposes of extracting information and the practice of routine 'purposive torture' appears to have accompanied most interrogations.

145 Section 6 of the Terrorism Act was first used to detain ten South West Africans arrested during the attack on the SWAPO base at Omgulumbashe. The captives vanished from view and were brought to trial in Pretoria after two years of interrogation, intermittent torture and many months of solitary confinement. Section 6 was subsequently used in a series of detentions of suspected ANC members in 1968.

146 A further window into the interrogation and torture of detainees under the Terrorism Act is provided by the detention of some eighty South African Students' Organisation (SASO) and Black People's Convention (BPC) activists in November 1974. Many of these were transported to Pretoria where they were intensively interrogated at the Security Branch's Compol offices. It appears that a team of security policemen from around the country were involved in these interrogations. Almost all detainees alleged severe torture.

147 Former Durban Security Branch member Colonel ARC 'Andy' Taylor [AM4077/96] played a prominent role in the interrogations. He applied for amnesty for the assault of Ms Bridgette Sylvia Mabandla, Dr Sathasivan Cooper [JB06330/01GTSOW], Mr Revabalan Cooper [KZN/NSS/015/DN], Mr Lindani Muntu Myeza, Mr Nyangani Absalom Cindi and Mr Ruben William Hare. While Taylor claimed not to remember the details of these incidents, statements to the Commission and from Amnesty International indicate a consistent pattern: lengthy interrogations accompanied by assault and torture involving forced posture such as being forced to sit in an imaginary chair. In some instances, electric shocks were alleged to have been administered.

148 Numerous claims of torture in detention were made during the May 1976 trial of Mr Harry Gwala and nine others under the Terrorism Act. Over forty people were detained in connection with this trial. One of the detainees, Mr Joseph Mdluli, died in detention (see below). Six of the accused filed a summons against the Minister of Police for not responding to claims for damage as a result of torture. Two of the accused, Mr Joseph Nduli and Mr Cleopas Ndhlovu, had been abducted from Swaziland. In his amnesty application, Taylor stated that Nduli and Ndhlovu

*were in charge of recruiting and escorting recruits through Swaziland in transit for training. They were abducted ... and taken to Island Rock near Sodwana, for questioning. They were assaulted with open hands, fists ... kicked. The detainees were also kept awake for long hours and deprived of sleep.*

149 A United Nations document gives the following account:

*On the morning of 29 March, Cleopas Ndhlovu was blindfolded and led through the forest to a house or hut. A rope was attached to his neck while he remained blindfolded. The rope was affixed to a rafter or similar object above his head. In this position he was repeatedly struck with a stick on his head, knees and feet. His nipples and ears were repeatedly twisted. He was struck with fists on his face and stomach, and threatened that he would be thrown into the sea from a boat.*

*That night, he was taken and tied to a tree, still blindfolded. His legs were clamped in leg irons. He was left exposed throughout the night of 29/30 March. Early on 31 March 1976, he was dragged by the rope, still attached to his neck, to the sea and compelled to wash himself. He was threatened that he would be taken out to sea and drowned. Throughout this period, he remained blindfolded.*

*A few days later, he was subjected to electrical shocks.*

150 Nduli experienced similar methods of torture. During the trial, a Pietermaritzburg surgeon, Mr R Denyssen le Roux, filed an *affidavit* which noted scars on Nduli's forehead, the back of his head, neck, forearms and legs. Major JJ de Swardt and Colonel JG Dreyer denied involvement in his torture. The application for the arrest to be declared unlawful was turned down.

151 Durban security police called to testify included Colonel Dreyer, Warrant Officer Botha, Lieutenant CR McDuling, Captain D Wessels and Captain JC Fourie, all of whom denied assaulting the detainees. However, several accused as well as several of those who served as witnesses claimed assault.

152 Mr Ndoda Anthony Xaba [KZN/PMB/002/PM] testified that he was assaulted, his head banged against the wall, that he was held out of the window and his right arm broken.

153 Mr Harry Gwala alleged that, during a break in his interrogation, Lieutenant Coetzee "walked around like a dog wanting to bite someone's testicles. The Lieutenant said he would catch hold of my testicles and make me pass faeces." Colonel Dreyer said in court that it was possible that Gwala could have been interrogated for two days without sleep. Captain Fourie defended interrogating him for a forty-three-hour stretch because of the crisis in the country.

154 In a twenty-hour interrogation session, Mr John Nene was kicked, punched, throttled so that he fainted three times, made to walk with stones in his shoes and threatened with death by shooting or falling through a window. He was kept in a cockroach-infested cell: "In the beginning I didn't like them, but after a time I played with them and looked upon them as people in my cell."

155 Mr William Khanyile said he was repeatedly made to sit on an imaginary chair, and was hit and kicked. Mr Vusumusi Magubane was made to stand with stones in his shoes, was throttled and subjected to long hours of interrogation. Mr Zakhele Mdlalose also alleged the 'imaginary chair' and 'stones in shoes' torture in his evidence.

156 Mr Michael Gumedede told the court that police had hit him, put stones in his shoes and made him stand on tiptoe, and tied a brick around his testicles and threatened to continue torturing him until he confessed to having been recruited for military training.

157 Mr Judson Khuzwayo and Mr Russell Maphanga [KZN/FS/142/DN], both defence witnesses, said they were tortured. Mr Frans Kunene, who initially gave evidence for the state, returned to the witness box for the defence. He told the court that he also had stones put in his shoes, was made to squat with his chin and knees against the wall and, when he fainted, was struck with a *sjambok*. His fingernails were banged with the head of the *sjambok*; and as a result he had lost them all. This treatment continued until he agreed to give evidence for the state. He was told not to mention assault in court. When he did, he was declared a hostile witness and charged with perjury.

158 After giving evidence for the state, Mr Harold Nxasana returned as a defence witness. He had been held under section 6 of the Terrorism Act for 500 days. He told the court that a cloth had been put into his mouth and a sheet wrapped around his neck and lower face. A policeman had rolled a heavy object like a large metal ball into another cloth and hit him with it. After giving evidence, he broke down, fearing that the Security Branch would kill him for having testified to their actions.

159 A number of Johannesburg detainees who were detained with Mr Neil Aggett (see below) in 1981 made statements about torture under section 6 of the Terrorism Act. An amnesty application in this connection was received from Warrant Officer WC Smith [AM5469/97].

160 As these cases indicate, torture was used expressly to extract information and admissions, and interrogation was in some instances followed by a trial. Detainees, 'broken' by torture, were frequently used as state witnesses. In some instances, despite the presence of perpetrators in court, such witnesses withdrew their statements, alleging that they had been made under duress. Court cases were increasingly characterised by 'trials within trials' to test the admissibility of such statements. Few judges ruled in favour of detainees. In many cases, however, detainees were eventually released after lengthy spells in detention without having been charged.

161 It is also important to note the *modus operandi* of the Nduli and Ndlovu detentions – abduction from Swaziland and interrogation at a police camp rather than a formal place of detention. This foreshadows an extensive pattern of abduction and interrogation in the 1980s. In later years, however, such detainees were frequently killed.

162 During the 1976 unrest, the government amended the Internal Security Act in order to provide for what was termed 'preventive detention'. Theoretically, the detention was not meant to exceed twelve months. Proclamation R133 of 16 July 1976 applied the provisions of the Internal Security Amendment Act to the Transvaal, while Proclamation R159 of 11 August 1976 extended its applicability country-wide. This was extended for a further year.

163 The Internal Security Act (1982) attempted to consolidate security legislation into one act. Detentions were covered by the following clauses:

- Section 28: Indefinite preventive detention;
- Section 29: Indefinite detention for interrogation, with detainees held in solitary confinement;
- Section 29(2): No court could challenge the validity of a detention order;
- Section 31: Detention of potential witnesses for not longer than six months or for the duration of a trial;
- Section 50: A low-ranking police officer could detain a person deemed to be threatening public safety for fourteen days' preventive detention. For the detention to be extended, the permission of a magistrate was needed.

164 Detainees held under section 28 were sometimes questioned, but were primarily detained in order to keep them out of circulation. Section 29 was used chiefly

for detention of those suspected of links with the underground, and particularly military, structures. Detainees held under this clause were subjected to torture. In the mid-1980s, the Internal Security Act continued to be used for specific cases of suspected terrorism and for intensive interrogation. However, detention happened far more widely under the state of emergency provisions.

165 State of emergency regulations gave police powers to detain individuals for an initial period of fourteen days on little more than a suspicion that they may have been a "threat to the safety and security of the state". The period of detention could be extended almost indefinitely. Thousands of people, mostly black men, were incarcerated under these provisions during the states of emergency in the mid- to late 1980s. The wide-ranging powers given to the police, including extensive indemnity provision, and the lack of any censure for excesses, reinforced their understanding that they enjoyed impunity for extensive abuses committed in the interests of state security.

### **The Red Location detainees**

*During August 1985, hundreds of male residents of Red Location outside Port Elizabeth were rounded up by police late one night and taken to a police station before being transferred to St Alban's prison. At the police station, they were subjected to random assaults over a period of some hours. Detainees reported having bricks dropped on their feet, being beaten with pick handles, being hit repeatedly on the palm of the hand with a cane and having to run the gauntlet of a row of policemen armed with sjamboks.*

*Often there seems to have been a deliberate attempt to humiliate detainees. A minister of religion was made to dance naked in front of his neighbours; an old man was forced to sing songs for teenagers; young men were made to lick the boots of police officers; a detainee whose nose had bled as a result of a beating was made to wipe the blood off the floor with his bare hands; another had his hair pulled out and was made to eat it.*

*Torture also took its more 'traditional form' of physical and emotional assault during interrogation, in an attempt to extract information. Trade union leaders, political activists and leaders of student organisations were the prime targets.*

*While there is no evidence that prison staff were involved in assaults, they were aware of the abuses and did nothing to stop them. In her affidavit to the Port Elizabeth Supreme Court in September 1985<sup>12</sup>, Dr Wendy Orr reported a prison warden who said, on seeing a badly beaten and bruised*

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<sup>12</sup> Case no 2507/85, Ref 129/7. Files are at the Port Elizabeth Supreme Court, Port Elizabeth.

*detainee who had just been returned to the prison after a session of interrogation, "Hy het dit seker nodig gehad" (He probably deserved it).*

## **Deaths of detainees held in terms of security legislation**

166 The Commission was told of a number of cases where the victim died while detained under security legislation.

### **'Suicides'**

167 In the following cases the police said the death was the result of suicide:

- a Mr Looksmart Ngudle [CT00504/GAU; also see EC0127/96/CCK] died on 5 September 1963 in Pretoria, allegedly a suicide by hanging, following electric shock torture.
- b Mr Suliman Saloojee [JB01711/01ERKWA] died on 24 January 1964 after allegedly jumping from a window.
- c Mr James Thabiso Lenkoe [JB00092/01GTSOW] died in Pretoria Central prison on 10 March 1969. Police claimed he had committed suicide by hanging. A pathologist report established that he had been tortured and possibly killed.
- d Mr Ahmed Timol [JB00173/03WR] died on 27 October 1971 at John Vorster Square in Johannesburg. According to the police, he committed suicide by leaping out of the window of a tenth-floor office.
- e Mr Luke Mazwembe [CT00516/FLA; EC1249/96BUT; CT01307/KAR] died in detention in Cape Town in 1976, after allegedly "hanging himself with a blanket".
- f Mr Mapetla Mohapi [EC0007/96PLZ] died at Kei Road police station, East London, on 5 August 1976. Ms Mohapi was told by the police that her husband had hanged himself with his jeans. However, a 'suicide note' from Mohapi was apparently not in his handwriting.
- g Mr Hoosen Haffajee [KZN/NG/006/DN] died in Brighton Beach police cells, Durban, less than twelve hours after having been detained, on 3 August 1977.
- h Mr Mxolisi Johannes 'Dikkie' Jacobs [CT04205/UPI] died in Upington police cells on 22 October 1986, another alleged suicide by hanging.
- i Mr Phakamile Harry Mabija [CT00135/KIM; also see CT00635/KIM and CT04513/KIM] died in detention in Kimberley on 7 July 1977 in an alleged suicide: he "jumped out of a window" on the sixth floor.

- j Mr George Botha [EC1587/97PLZ] died in security police custody in Port Elizabeth on 15 December 1976, allegedly "suicide through jumping down a stairwell" of the Sanlam Building, the offices of the Port Elizabeth Security Branch offices.
- k Mr Lungile Tabalaza [EC0002/96PLZ & EC2607/97PLZ] died at 15h00 on 10 July 1978, allegedly after jumping from the fifth floor window of the Sanlam Building in Port Elizabeth. At the inquest, the government pathologist acknowledged that several bruises and lacerations could have been sustained before the fall. A magistrate, Mr Lubbe, who saw Tabalaza less than an hour before his 'suicide', expressed regret for having failed to investigate Thabalaza's fears that he would be beaten if he did not make a statement when he was taken back to the Security Branch offices.
- l Mr Neil Hudson Aggett [CT00410/FLA] was detained in November 1981 and died on 5 February 1982, allegedly having committed suicide by hanging.

168 The security police suggested that detainees had received instructions from the ANC to commit suicide rather than talk. Some claimed that they committed suicide in order to malign the Security Branch. Mr TJ '*Rooi Rus*' Swanepoel was quoted in a November 1982 press article as saying: "It is a communist plot. If they commit suicide, they can cast doubts on the security forces."<sup>13</sup>

169 The Commission has taken into consideration the evidence of victims of torture which could well have led to death, especially those cases in which similar forms of torture *did* lead to death. A number of cases were recorded of detainees having their heads bashed against the wall and of detainees who were suspended by their feet outside windows of buildings of several storeys, raising the strong possibility that at least some of those detainees who allegedly committed suicide by jumping out of the window were either accidentally dropped or thrown.

172 Mr Mfene Simon Yoyo [EC0653/96QTN] told the Commission that, during his detention in East London in April 1963, his interrogating officer said: "This person does not want to tell the truth. Then I think let's throw him out of the window ...". Yoyo said they lifted him up and hung him out of the window, threatening to let go.

174 Mr Vusumzi Johnson Nyathi [JB02097/03WR], a detainee in the Bethal trial of *the State v Mothopeng and seventeen others*, survived after he was allegedly thrown out of the window during an interrogation session. Nyathi, who suffered spinal injuries, was later charged and found guilty of trying to escape from custody. By

<sup>13</sup> *Rand Daily Mail*, 6 November 1982.

the time the Bethal trial opened in December 1977, four persons detained in connection with the trial had died in detention. They were Mr Naboath Ntshuntsha, Mr Samuel Malinga, Mr Aaron Khoza and Mr Sipho Bonaventura Malaza. Nyathi later sued the Minister of Police without success.

- 175 The Commission also heard evidence of *bona fide* cases of suicide and accounts from detainees who said they had contemplated or attempted suicide. Mr Prema Naidoo spoke of his wish to commit suicide after revealing information after six days of unremitting torture: "I contemplated suicide, not because I was hurt or anything but because I felt I had betrayed the cause, the cause which I believed in."
- 176 The Commission is of the opinion that, given the extensive evidence of physical as well as psychological torture, suicides under conditions of detention should be regarded as induced suicide for which the security forces and the former government are accountable.

#### ***'Accidental deaths'***

- 177 In at least three cases which came before the Commission, the police claimed accidental death. Mr Nicodimus Kgoathe [JB00113/03NWRUS] and one of his co-accused, Mr Solomon Modipane, both died in detention under the Terrorism Act in February 1969. The police explanation for Kgoathe's death was "bronchial pneumonia after slipping in the shower" and for Modipane's death, "fatal injuries from slipping on a bar of soap".
- 178 Mr Joseph Mdluli [KZN/KM/999/DN], one of the accused in the case against Harry Gwala and nine others, died in detention in Durban on 19 March 1976. The official explanation for his death was "injury to neck after falling against a chair". While Judge Howard rejected allegations of torture made by detainees during the court case, he indicated in his judgement that the injuries sustained by Mdluli could not have been self-inflicted or caused accidentally, and found that most, if not all, of the injuries had been inflicted by the security police. In October 1976, four security police, namely Captain David van Zyl, Andy Taylor, Detective Sergeant H Makhanya and Detective Sergeant Z Mkhize, were charged with culpable homicide. All were later acquitted. In March 1979, the state admitted liability for the death of Mdluli and an out-of-court settlement of R28 616 was paid to his widow.

### **'Natural causes'**

179 In the following cases police claimed death from natural causes:

- a Mr Mzukisi Melvin Nobadula [EC0662/96PLZ] died in detention in Port Elizabeth in December 1977. His brother identified his body in the mortuary and saw that there were scars, burn marks and blood on it. At the *post mortem*, however, the district surgeon, Dr Laing, said he had died of natural causes.
- b Mr Caleb Mayekiso [EC0644/96/PLZ] died in detention in Port Elizabeth in 1969 while being held under the Terrorism Act.
- c Mr Elijah Loza [CT00257/FLA] died in Cape Town in 1977, allegedly of a stroke. His family believes he was "tortured to death".
- d Mr Stanza Bopape [JB00500/02NPPTB] was reported at the time of his disappearance to have escaped while being transported. Amnesty applications received by the Commission indicate that he died in detention, following electric shock, but allegedly from 'natural causes' (see below).
- e Mr Paris Malatji [JB0409/01GTSOW], an AZAPO activist, was shot at point-blank range when in custody in 1983 at Protea police station. Sergeant January Harm van As was convicted and sentenced to ten years' imprisonment for the shooting, the first conviction for the death of a detainee.
- f Mr Andries Raditsela, a member of the Chemical Workers' Industrial Union (CWIU) and executive member of the Federation of South African Trade Unions (FOSATU), was detained and assaulted so severely at Tsakane police station on 4 May 1985 that he died of head injuries two days later May in Baragwanath hospital, after his release.

### ***Deaths in detention under security legislation***

180 The Commission is aware of the following deaths of detainees held under specific security laws, excluding those detained under emergency regulations. The attributed cause of death is included:

**1964:** *Mr James Tyitya, Port Elizabeth: 'suicide by hanging';*

**1965:** *Mr Nengeni Gaga, Transkei: 'natural causes'; Mr Pongolosha Hoye, Transkei: 'suicide by hanging';*

**1966:** *Mr James Hamakwayo, Pretoria: 'suicide by hanging'; Mr Hangula Shonyeka, Pretoria: 'suicide'; Mr Leong Yun Pin, Pretoria: 'suicide by hanging'; Mr Ah Yan, Silverton: 'suicide by hanging';*

**1967:** *Mr Alpheus Maliba, South West Africa/Northern Transvaal: ‘suicide by hanging’;*

**1968:** *Mr Jundea B Tubakwe, Pretoria: ‘suicide by hanging’;*

**1969:** *Mr Michael Shivute, South West Africa: ‘suicide’; Mr Jacob Monakgotla, Pretoria: ‘natural causes’; Imam Abdullah Haron, Cape Town: ‘slipped down stairs’; Mr Mthayeni Cuthsela, Transkei: ‘natural causes’;*

**1976:** *Mr William Tshwane, Modderbee: ‘shot while trying to escape’; Mr Dumisani Mbatha, Modderbee: ‘natural causes’; Mr Fenuel Mogatusi, Johannesburg: ‘natural causes’; Mr Jacob Mashabane, Johannesburg: ‘suicide by hanging’; Mr Edward Mzolo, Johannesburg: ‘undisclosed’; Mr Ernest Mamasile, Transkei: ‘suicide by hanging’; Mr Thabo Mosala, Transkei: ‘natural causes’; Mr Wellington Tshazibane, Johannesburg: ‘suicide by hanging’;*

**1977:** *Mr Nabaoth Ntshuntsha, Leslie: ‘suicide by hanging’; Mr Lawrence Nzanga, Johannesburg: ‘natural causes’; Mr Elmon Malele, Johannesburg: ‘natural causes’; Mr Twasifeni Joyi, Transkei: ‘undisclosed’; Mr Mathews Mabelane, Johannesburg: ‘fell out of window’; Mr Samuel Malinga, Pietermaritzburg: ‘natural causes’; Mr Aaron Khoza, Pietermaritzburg: ‘suicide by hanging’; Mr Hoosen Haffajee, Durban: ‘suicide by hanging’; Mr Bayempini Mbizi, Durban: ‘suicide by hanging’; Mr Stephen Bantu Biko, Port Elizabeth: ‘head injuries’; Mr Sipho Bonaventura Malaza, Krugersdorp: ‘suicide by hanging’;*

**1981:** *Mr Manana Mgqweto, Transkei: ‘unknown’;*

**1982:** *Mr Ernest Dipale, Johannesburg: ‘suicide by hanging’;*

**1983:** *Mr Simon Mndawe, Nelspruit: ‘suicide by hanging’; Mr Paris Malatji, Johannesburg: ‘shot in the head’;*

**1984:** *Mr Samuel Tshikudo, Venda: ‘natural causes’; Mr Mxolisi Sipele, Transkei: ‘unknown’; Mr Ephraim Mthethwa, Durban: ‘suicide by hanging’;*

**1985:** *Mr Andries Raditsela, Johannesburg: ‘head injury’;*

**1986:** *Mr Makompe Kutumela, Lebowa: ‘police assault’; Mr Peter Nchabaleng, Lebowa: ‘police assault’;*

**1987:** *Mr Benedict Mashoke, Burgersfort: ‘suicide by hanging’; Ms Nobandla Elda Bani, Port Elizabeth: ‘natural causes’;*

**1988:** *Mr Sithembele Zokwe, Transkei: ‘shot by police’; Mr Alfred Makaleng, Johannesburg: ‘natural causes’;*

**1990:** Mr Clayton Sizwe Sithole, Johannesburg: ‘suicide by hanging’; Mr Lucas Tlhethlhomisang, Klerksdorp: ‘natural causes’; Mr Donald Thabela Madisha, Potgietersrus: ‘suicide by hanging’.

181 The Commission received statements about the following deaths in police custody. Although the Commission made a positive victim finding in these cases, it was not able to establish the exact legislation under which they were held at the time of their deaths.

- a Political activist Colenso Ninase Mnyane [EC0735/97ETK] died in detention in Tabankulu on 5 November 1967, either of heart failure or of injuries from a fall.
- b Mr Rocky James [EC0144/96/NWC] was shot dead while in custody in Cradock on 9 November 1977, allegedly while “trying to escape”. A statement from a municipal policeman, Michael Adams, said James was severely beaten by a white policeman. When James pleaded for help, Adams attempted to intervene. During the scuffle with the white policeman, James attempted to run away and was shot dead. Adams subsequently lost his job. The family heard that James had been instructed by the police to run away and had then been shot in the back.
- c Mr Ephraim Thami ‘Papi’ Mthethwa [KZN/ZJ/146/DN], a UDF member, was detained and died two months later on 24 August 1984 in Lamontville. He was held in solitary confinement at Sentela police station. Police claimed he had hanged himself.
- d Congress of South African Students (COSAS) activist Sipho Mutsi [KZN/ZJ/115/BL] was detained and died on 14 May 1985 in Odendaalsrus, Orange Free State after being severely beaten.
- e In August 1985 Mr Thembelakhe George [EC0846/96/KWT] was assaulted by police, first at his home during his arrest in connection with the consumer boycott in Ginsberg, and then at the police station in King Williams Town. His family later found him in hospital where he died from injuries sustained from the assault. The inquest magistrate noted that the head injuries which caused his death could have been inflicted by the police.
- f Mr Amos Dendeng Sonnyboy Mokoena [JB00264/01GTSOW] died in detention in Pilgrims’ Rest on 16 August 1985. The police told his mother he hanged himself in his cell. While the police allege that Mokoena was arrested on criminal charges, his mother alleges that he was politically active and had fled to Pilgrims’ Rest to escape detention.

- g Mr Tota Alex Mfazwe [EC1363/96PLZ] was arrested in Queenstown on 5 July 1986, severely assaulted, and is alleged to have committed suicide by hanging himself at Queenstown police station on 6 July. The family reported that there were bruises and a big scratch on his face and that his clothes were badly torn.
- h Mr Nopola Njatu [EC0427/96/NEC] died after being beaten up in police custody in Sterkstroom in November 1986. Police alleged death due to an epileptic fit; but his family noted an open wound on his forehead. The inquest found that the cause of death was 'not determined'.
- i Mr Eric Ndondela Nongqo [EC1515/97NWC] died of neck injuries after being arrested and beaten up at the police station in Steynsburg on 18 July 1987.
- j Mr Paulus Radebe [KZN/ZJ/169/WE] was detained in 1987 in Welkom. He was tortured to death at the Odendaalsrus police station on 31 October 1987.
- k Mr Anthony Melville Smiles [EC0313/96/ALN], a political activist, was arrested in Dordrecht in 1988, allegedly for being drunk in the street. The police alleged that he had committed suicide in police cells by hanging himself with his overalls. The inquest report indicated that, while suicide was possible, death by other means could not be ruled out. The *post mortem* recorded that either the victim had attempted to loosen the overalls himself or that he had first been strangled and then hanged after death.

182 The Commission has received a substantial number of further cases of deaths in police custody. In many inquest reports, magistrates ruled that no one could be held accountable for the deaths of detainees.

183 The Commission received amnesty applications in respect of the deaths of only three detainees, namely Mr Stephen Bantu Biko, Mr Sizwe Kondile and Mr Stanza Bopape.

184 Stephen Bantu Biko died in police custody in Pretoria on 12 September 1977. He was detained by the Security Branch in Port Elizabeth twenty-four days earlier, and was subjected to interrogation, during which he sustained serious brain injuries. He was examined by both a district surgeon and a medical specialist (see Volume Four, chapter on the health sector hearing). He was then transported naked in the back of a police van from Port Elizabeth to Pretoria. He died from brain damage in a prison cell shortly after his arrival in Pretoria. On hearing the news of his death, Minister Kruger said: "It leaves me cold." He implied that

Biko had died as a result of engaging in a hunger strike. At the inquest, the security police claimed that Biko had "become violent" during interrogation and had to be "subdued" by the interrogation team, in the course of which he hit his head against the wall.

185 Mr Harold Snyman [AM3918/96], Mr Gideon Nieuwoudt [AM3920/96], Mr Daniel Petrus Siebert [AM 3915/96], Mr Ruben Beneke Marx [AM3521/96] and Mr Jacobus Johannes Oosthuizen Beneke [AM6367/97] applied for amnesty for Biko's death. Brigadier Piet Goosen, head of the Security Branch in the Eastern Cape at the time of Biko's death, is deceased. Amnesty applicants held fast to the explanation they gave at the inquest. The Biko family did not make a statement to the Commission and are opposed to the granting of amnesty.

186 Mr Stanza Bopape [JB00500/02NPPTB] was arrested at around midnight on 9 or 10 June 1998, together with his flatmate Mr Bheki Nkosi [JB00500/02NPPTB] at their flat in Hillbrow. About twenty men, armed with guns, bush knives and bullet-proof vests and led by Lieutenant CA Zeelie [AM3751/96], jumped into the room. Zeelie asked Bopape whether he was 'ST' or 'Walk Tall', MK names by which Bopape was known. Bopape was then punched in the stomach. The last Nkosi saw of Bopape was at the Roodepoort police station. Nkosi himself was later subjected to electric shock torture.

187 After several queries from Bopape's lawyers as to his whereabouts, the SAP informed them that he had escaped. On 13 July 1988, then Lieutenant General Johan van der Merwe, head of the Security Branch, informed the lawyers that Bopape had "wilfully escaped" while "being escorted by motor vehicle to Vereeniging, where certain police investigations were in process. A flat tyre en route necessitated that the police vehicle stop and whilst the spare tyre was being fitted, your client made good his escape." Van der Merwe said that this escape had not been publicised for fear of jeopardising a sensitive police investigation regarding the movement and activities of trained "terrorists".

188 In an article that appeared in *Business Day* on 26 April 1989, Minister Vlok was reported to have announced that Bopape had been seen in an area where an act of terror took place. Similarly, on 15 June 1989 the *Sowetan* quoted Brigadier Leon Mellett of the SAP as saying that Bopape had been seen by a former colleague, whose name was not disclosed. On 19 June 1990, Vlok reported to Parliament that the investigation into Bopape's disappearance was continuing. He refused to disclose the names of the officers in whose care

Bopape had been at the time of his disappearance, but indicated his preparedness to do so if the Harms Commission wished him to. The Harms Commission decided that there were insufficient grounds for holding a hearing.

- 189 Bopape's disappearance remained unresolved until amnesty applications were received from Lieutenant Charles Zeelie [AM3751/96], Mr HAB Mostert [AM4403/96], Major AP van Niekerk [AM4353/96] and Mr JL du Preez [AM4404/96] for their role in his death. In addition, the head of the Security Branch, Lieutenant General JV van der Merwe [AM4157/96], Colonel S Visser [AM5000/97], Captain Leon van Loggerenberg [AM5010/97], Witwatersrand divisional commander Major-General GN Erasmus [AM4134/96], and Major General PL du Toit [AM4131/96] applied for amnesty for their role in covering up the death.
- 190 The amnesty applications reveal that a meeting was held on Saturday, 11 June at the offices of the Krugersdorp/West Rand Security Branch. The meeting was attended by about fifteen Security Branch members, including officers Mostert and Colonel Van Niekerk from Johannesburg. They were told that Bopape had been trained by MK member Odirile Maponya, and had been involved in and/or planned several terrorist attacks. Maponya's group, Mr MRA Toka and eleven others, had stood trial on several charges of murder and bombings in Pretoria.
- 191 On Sunday, 12 June 1988, Bopape was taken from his cells to the offices at John Vorster Square for questioning by Mostert and S/Constable Engelbrecht. After Bopape refused to co-operate, Van Niekerk, Zeelie, Mostert and Engelbrecht together decided that Bopape needed to be given a "little fright" to persuade him to co-operate. Colonel Van Niekerk approved the use of the electric shock instrument. A Sergeant du Preez brought the instrument from Sandton where it was kept. Van Niekerk relates:

*We decided to tie Mr Bopape to a chair ... His shirt was removed, his hands were tied to the supports of the chair and his feet to the legs ... Sergeant du Preez had the shock device in his hand ... There were two cords running from the device and at the tip of it, these cords, there were two pieces of cloth which were wrapped around the tips of the cords. This device was turned three or four times by Sergeant du Preez and whilst he was turning it, Mr Engelbrecht pushed these cords against his body ... It didn't take very long, maybe two to four minutes, the device was turned, then it was stopped, then someone asked him if he wanted to say something and if there was no reaction to that, then the machine was turned again and this must have happened about three times. By the third time, Mr Bopape's*

*head fell forward and I realised there was something wrong. We immediately untied him, placed him on the floor and Sergeant du Preez gave him mouth-to-mouth resuscitation. It seemed that he was dead already and I think that all of us standing there ... all thought that he was dead.*

- 192 The five officers discussed the possible consequences of Bopape's death and decided that they could be extremely serious. Aside from the negative publicity around yet another section 29 death, June 16 was only a few days away and the Security Branch feared that the news of his death could spark off violence. Colonel Van Niekerk reported the matter to his divisional commander, who discussed the matter with Lieutenant General Johan van der Merwe and they agreed that a fake escape should be arranged. Brigadier Schalk Visser, head of the Eastern Transvaal Security Branch, would assist with the disposal of the body.
- 193 As night fell, Stanza Bopape's body was secreted out of the police station. Members of the Johannesburg Security Branch met members of the Eastern Transvaal Security Branch next to a highway near Bronkhorstspruit, where they handed over the 'sensitive package' to Captain van Loggerenberg. Van Loggerenberg could see that it was a human body covered in plastic. He drove directly to a crocodile hole in the Komati River close to Komatipoort, near a picnic spot frequented by police officers. He pushed the body partially into the hole and it sank away. On his return he reported to Visser.
- 194 The applicants claimed that they only "turned the instrument two or three times" and that this was not sufficient to cause death in a healthy human being. They said that Bopape had previously been treated for a heart complaint at the Princess Clinic, that they had been unaware of this, and that his death must have occurred as a result. The Princess Clinic no longer exists and corroborating records are not available. However, Bopape's girlfriend claims that his treatment at the Princess Clinic was in connection with a nasal complaint.
- 195 Odirile Maponya, who is alleged to have trained Bopape, was blown up while allegedly laying a limpet mine in Pretoria in 1988. Maponya's brother was abducted and interrogated about his brother's network and killed (see below).

## **Applications for amnesty**

- 196 While the Commission received thousands of statements alleging torture, few amnesty applications were received specifically for torture. Amnesty applicant

Andries Johannes van Heerden [AM3763/96] was a member of the terrorist detection unit at John Vorster Square between January 1977 and June 1978, during which time he was involved in the interrogation and beating of those involved in Soweto unrest. Detainees were kicked, slapped and suffocated, using a wet tyre tube. In 1988 he participated – by beating and administering electric shocks – in the interrogation of Mr Peter Dlamini and others connected with the Café Zurich explosion in Hillbrow.

- 197 Amnesty applicant Willem Johannes Momberg [AM4159/96] was a member of the Security Branch in Northern Transvaal (sergeant in 1981, and later lieutenant colonel). Momberg applied for amnesty for the torture of an unidentified MK member, who was killed during interrogation. He also applied for amnesty in connection with the interrogation of a security guard at the United Bank in Pretoria, whose brother was an MK 'terrorist'.
- 198 Amnesty applicant Stephanus Adriaan Oosthuizen [AM3760/96] applied for the beating, kicking and suffocation of an unknown activist on a farm near the Pietersberg freeway.
- 199 Amnesty applicant Colonel PJ Cornelius Loots [AM5462/97] applied for amnesty for his involvement, together with Captain Jacques Hechter [AM2776/96] and Warrant Officer van Vuuren, in kidnapping Father Smangaliso Mkhatshwa from police cells and detaining and interrogating him for several days. Mkhatshwa was made to stand for the entire period of his interrogation. He was blindfolded while gunshots were fired and dustbin covers banged together next to his head, and locusts were made to crawl up his legs.
- 200 Mr Christo Nel [AM6609/97] applied for amnesty in respect of the detention and torture of a detainee in Durban in 1984/5. The victim was made to remove his clothes and to climb onto a table. He was held down by Nel and an unidentified medical practitioner inserted his finger into the victim's anus while he was questioned.
- 201 Lieutenant Colonel Antonie Heystek [AM4145/97] applied for amnesty in respect of the abduction and torture of Mr Peter Moleke Lengene in Soweto during 1982. Lieutenant-Colonel Anton Pretorius [AM4389/96] and Lieutenant-Colonel Willem Helm 'Timol' Coetzee [AM4032/96] also applied for amnesty for the abduction and torture of Lengene as well as the abduction and torture of Ms Nokuthula Simelane.

202 Lengene was abducted from Botswana, and, after being rendered unconscious, taken to a garage where he was left naked and handcuffed to a table. He was then taken to what he believed to be a farmhouse belonging to Coetzee's father-in-law. He was interrogated for six days, during which time he was given electric shocks to his genitals, beaten with a hosepipe and kept naked and without blankets. At some point Coetzee's father-in-law came in with a pair of pliers and told the Security Branch officers interrogating them that they were wasting their time. "He just took hold of my penis with a plier. He said, 'Willem, take this and cut the fucking penis with a plier, he will tell you the truth'. They just kept on laughing while I was grieving with pain."

203 Lengene became an *askari*, working chiefly with the Soweto Intelligence Unit (SIU), and himself applied for amnesty for a number of operations conducted as part of the SIU.

204 Mr Johannes Jacobus Strijdom [AM5464/97] applied for amnesty for torturing activists on a Hammanskraal farm during 1986/7 when he was a member of Vlakplaas and the security police's anti-terrorist unit – using forced posture, beating and intimidation. Strijdom and Major Sarel du Plessis 'Sakkie' Crafford were part of a team of mostly black security force members who were staying on the farm to assist with the interrogations. After interrogating an activist one Saturday, Strijdom and a named colleague left the activist with the black security members and went to Pretoria. When he returned, the activist was hanging from a tree and was being assaulted. His colleague held a pistol to the activist's head, with the barrel facing upwards, and pulled the trigger repeatedly. Strijdom got an empty soda water bottle and hit the man on the head several times. When he lost consciousness, they poured buckets of water on him. The interrogation was authorised by his commanding officer, whose name may not be revealed as the amnesty application had not been heard at the time of reporting.

205 Amnesty applicant Warrant Officer Paul van Vuuren [AM6528/97], a member of the Northern Transvaal security police, was involved in several cases of torture in Pretoria and surrounding areas between 1985 and 1989. Torture methods used included beating, electric shocks, placing gas masks over the faces of victims, suffocation using a rubber tube ("tubing"), and strangulation with a piece of electric wiring. Warrant Officer Van Vuuren also applied for amnesty for the torture, interrogation and killing of Mr Jackson Maake, Mr Andrew Makupe and Mr Harold Sefola (see below).

206 Colonel Roelof Venter [AM2774/96] applied for amnesty for the interrogation of arrested ANC, PAC and SACP members between 1972 and 1985. Torture methods used included beating, electric shocks, prolonged interrogation to tire the person mentally, insults, humiliation and degradation. He specifically mentioned the interrogation of Ms Regan Shope and also that of Ms Barbara Hogan between December 1981 and June 1982, which was authorised by his commanding officer, whose name is being withheld.

207 Mr Eric Goosen [AM4158/96], a member of Northern Transvaal security police, applied for amnesty for beating and severe ill treatment administered to an unknown ANC courier in Mamelodi West between June and December 1987. During the interrogation, he denied any involvement with the ANC. Goosen participated in hitting and kicking him to try to get information, and then put him into the boot of the car.

208 Amnesty applicants Marius Greyling [AM8027/97], Karl Durr [AM8029/97] and Frans Bothma [AM8030/97] were involved in the interrogation and assault of Mr Pravin Gordhan in 1990 in Bethlehem. Greyling also assisted in the suffocation of Mr Raymond Lalla.

209 Durban security police officer Andy Taylor [AM4077/96] applied for amnesty for numerous acts of assault on detainees. Taylor admits to assault leading to severe swelling and the use of electric shock torture on Mr Raymond Suttner. Taylor died in December 1997, before his application to the amnesty committee had been heard.

210 Warrant Officer WCC Smith [AM5469/97] applied for amnesty for the torture of numerous detainees held in Johannesburg in 1981 in connection with underground activities. He said that detainees were subjected to "serious assaults", the details of which he was unable to remember. However, as far as he was aware, he used "normal Security Branch methods". The detainees in respect of whom he applied for amnesty include Mr Benjamin Greyling, Mr Gerhardus van der Werf, Mr Prema Naidoo, Mr Suresh Nanabhai, Mr Michael Jenkins and Ms Esther Levetan.

211 Amnesty applicant Jeffrey Benzien [AM5314/97] was a detective at the Bishop Lavis Murder and Robbery Unit until 1986, after which he worked for the security police's Terrorism Tracking Unit. During his amnesty hearing, he admitted to torturing Mr Peter Jacobs, Mr Ashley Forbes, Mr Anwar Dramat, Mr Tony Yengeni, Mr Gary Krusen, Mr Niclo Pedro and Mr Allan Mamba. The main form of torture

was the ‘wet bag’ method. Lieutenant Liebenberg [AM6369/97], Benzien’s superior at the time, applied for amnesty for knowledge of torture. Major General Griebenuw, who gave corroborating evidence in the amnesty hearing, testified as follows:

*During my term in office in Cape Town, extreme pressure was placed by the Joint Security Management System on the Security Branch, in particular to stem the tide of murder and violence. And obviously I gave members under my command instructions to do everything in their power to apprehend people who were guilty of these things and to extract as much information as possible from the detainees so that the entire network operative in the country could be disrupted in time to prevent further loss of life. This was the only way in which we could protect lives and properties ...*

*I was ... very much aware of the fact that members' success could be ascribed to the use of unconventional questioning or interrogation methods. It would have been naive of me to believe that they would extract information in any other way from a well trained terrorist and to do so quite quickly.*

- 212 Amnesty applicant Gert Cornelius Hugo [AM3833/96], a former MI operative, said that he was part of an operation called *Orpheus* whose aim was to “remove” the leadership of local resistance organisations. He worked with Security Branch members, at least one of whom, Lieutenant Gideon Nieuwoudt [AM3920/96], also applied for amnesty for acts of torture. He mentioned several forms of torture, including the use of “truth serum”, submerging in water, electric shocks, forcing people to stand for hours and suffocation with a rubber tube.
- 213 As can be seen from the above, a number of the applications relate to the torture of people *outside* of official custody. Abduction or ‘unofficial’ detention was used increasingly during the 1980s. In most instances, those so detained were subjected to extreme torture and were either coerced into becoming *askaris* or killed (see below).

## **Knowledge or condonation of torture**

- 214 The SAP and the former government have conceded that torture occurred, but have claimed that it represented the actions of a few renegade policemen. Thus, for example, in his submission to the Commission, the former leader of the National Party (NP) and former State President FW de Klerk maintained:

*The National Party is prepared to accept responsibility for the policies that it adopted and for the actions taken by its office-bearers in the implementation*

*of those policies. It is, however not prepared to accept responsibility for the criminal actions of a handful of operatives of the security forces of which the Party was not aware and which it never would have condoned.*

215 However, the NP's former Deputy Minister of Police Leon Wessels conceded that it was not possible to deny knowledge of torture. At the Commission's special hearing on the role of the State Security Council, Wessels said that "it was foreseen that under those circumstances people would be detained, people would be tortured, everybody in this country knew people were tortured". Wessels also conceded in an interview that, on one occasion, when he had raised the matter of torture with former Minister Louis le Grange, Le Grange had responded: "Leon, but you have such a fantastic image amongst the Police and other people, why are you ... spoiling all of this by getting involved in this".

216 While the courts in general failed to protect the rights of detainees, there were cases when magistrates and judges ruled in favour of those in custody. Thus, for example, in the State v Mogale, the Appellate Division established that the security police had severely assaulted a detainee in order to compel him to confess. Such assault had included punching, kicking, throttling with a medallion chain, electric shock and breaking of two teeth with pliers.

217 In the State v Mayson, the judge ruled that Mr Cedric Mayson's statement was inadmissible as he had been subjected to torture. Eight months before, one of the officers implicated in the Mayson case admitted at the Aggett inquest that he had "given Lieutenant Whitehead and other officers permission to interrogate Aggett for an extraordinarily lengthy spell said to have covered sixty-three hours". Shortly thereafter, other security police implicated in these cases were ordered to pay Mr Auret van Heerden R5 000 in damages for subjecting him to "unreasonably lengthy periods of detention". Hence, notwithstanding incriminating judgments, security police were allowed to continue torturing detainees unchecked.

218 Further evidence of tolerance of torture lies in the promotion, sometimes to the highest levels, of security police officers involved in torture. Statements before the Commission implicate four former heads of the Security Branch, two of whom subsequently became commissioners of police.

219 A number of officers commanding of divisional and local Security Branch offices and section heads at headquarters have been implicated either directly or indirectly of having knowledge of torture. These include the divisional commanders of the Eastern Cape, the Eastern Transvaal, Port Natal, Northern Transvaal and Border.

220 The use and condoning of torture allowed for the use of coercion in the investigation of cases. Reinforced by deep racism, this approach increasingly characterised police work and led, furthermore, to serious neglect of investigative police work.

THE COMMISSION FINDS THAT THE USE OF TORTURE IN THE FORM OF THE INFILCTION OF SEVERE PHYSICAL AND/OR MENTAL PAIN AND SUFFERING FOR THE PURPOSES OF PUNISHMENT, INTIMIDATION AND THE EXTRACTING OF INFORMATION AND/OR CONFESSIONS, WAS PRACTISED SYSTEMATICALLY PARTICULARLY, BUT NOT EXCLUSIVELY, BY THE SECURITY BRANCH OF THE SAP THROUGHOUT THE COMMISSION'S MANDATE PERIOD.

THE COMMISSION FINDS FURTHER THAT A CONSIDERABLE NUMBER OF DEATHS IN DETENTION OCCURRED, EITHER AS A DIRECT RESULT OF TORTURE OR AS A CONSEQUENCE OF A SITUATION IN WHICH THE CIRCUMSTANCES WERE SUCH THAT DETAINEES WERE INDUCED TO COMMIT SUICIDE.

GIVEN THAT:

- EVIDENCE TO THIS COMMISSION HAS SHOWN THAT TORTURE WAS USED BY THE SECURITY BRANCH AT ALL LEVELS, JUNIOR AND SENIOR, AND IN ALL PARTS OF THE COUNTRY;
- MANY OF THOSE ABOUT WHOM EITHER CLEAR EVIDENCE EXISTED OR SUBSTANTIAL ALLEGATIONS HAD BEEN MADE OF THEIR INVOLVEMENT IN TORTURE, RESULTING AT TIMES IN THE DEATHS OF THEIR VICTIMS, WERE PROMOTED TO HIGHER RANKS;
- DESPITE NATIONAL AND INTERNATIONAL CONCERN AT THE EVIDENCE OF THE WIDESPREAD AND SYSTEMATIC USE OF TORTURE BY THE SOUTH AFRICAN SECURITY FORCES, LITTLE EFFECTIVE ACTION WAS TAKEN BY THE STATE TO PROHIBIT OR EVEN LIMIT ITS USE AND THAT, TO THE CONTRARY, LEGISLATION WAS ENACTED WITH THE SPECIFIC INTENT OF PREVENTING INTERVENTION BY THE JUDICIARY AND REMOVING ANY PUBLIC ACCOUNTABILITY ON THE PART OF THE SECURITY FORCES FOR THEIR TREATMENT OF DETAINEES,

THE COMMISSION CONCLUDES THAT THE USE OF TORTURE WAS CONDONED BY THE SOUTH AFRICAN GOVERNMENT AS OFFICIAL PRACTICE.

THE COMMISSION FINDS THAT TORTURE AS PRACTISED BY MEMBERS OF THE SAP CONSTITUTED A SYSTEMATIC PATTERN OF ABUSE WHICH ENTAILED DELIBERATE PLANNING BY SENIOR MEMBERS OF THE SAP, AND WAS A GROSS HUMAN RIGHTS VIOLATION.

THE COMMISSION FINDS THEREFORE THAT THE FOLLOWING ARE DIRECTLY ACCOUNTABLE FOR THE USE OF TORTURE AGAINST DETAINEES AND INDIRECTLY FOR ALL UNNATURAL DEATHS OF DETAINEES IN POLICE CUSTODY: THE MINISTERS OF POLICE AND OF LAW AND ORDER; THE COMMISSIONERS OF POLICE; OFFICERS COMMANDING OF THE SECURITY BRANCH AT NATIONAL, DIVISIONAL AND LOCAL LEVELS. THE CABINET IS FOUND TO BE INDIRECTLY RESPONSIBLE.

## ■ KILLING

221 As levels of conflict intensified, the security forces came to believe that it was no longer possible to rely on the due process of law and that it was preferable to kill people extra-judicially. Evidence of this is contained in numerous amnesty

applications as well as section 29 hearings, in particular the hearing on the armed forces. Major-General 'Sakkie' Crafford [AM5468/97] claimed in his amnesty application that:

*In some cases it was necessary to eliminate activists by killing them. This was the only way in which effective action could be taken against activists in a war situation ... to charge someone in the normal court structure and go through the whole process was cumbersome and occasionally totally inadequate and impossible.*

222 Extra-judicial killing was generally directed at high-profile activists "whose detention in terms of security legislation would give momentum to the liberation struggle. The security police and the country could not afford a Nelson Mandela again."

223 Crafford suggested that the purpose of extra-judicial killing was threefold:

- a It scared off other supporters and potential supporters; it made people reluctant to offer open support; it created distrust and demoralisation amongst cadres.
- b It gave white voters confidence that the security forces were in control and winning the fight against Communism and terrorism.
- c The information gleaned during interrogation needed to be protected against disclosure.

224 The difficulty posed by extra-judicial killing was that it moved the security forces directly into an arena of illegality. While cross-border assassinations and raids certainly fell outside the scope of international protocols and sometimes law, the security forces perceived them to be legitimate, authorised and thus legal actions. Raids, for example, although organised at a clandestine level, were openly – and proudly – acknowledged after the operation was completed.

225 The internal situation was different. Here operations had to be highly covert, ensuring that actions could not be traced back to the security forces. This led to the development of covert units, such as region 6 of the Civil Co-operation Bureau (CCB) and Vlakplaas hit squads.

226 Evidence before the Commission also suggests that, in some instances, the security forces were able to arrange for killings to be conducted by a third party. A former member of the CCB described it thus:

*The emphasis was more placed on disruption by means of indirect means of getting the enemy to kill itself, to detain itself and to disrupt itself. And physically killing them was placed more or less ... [as] a last resort, sort of method.*

227 Examples of this form of killing included cases where an impression was deliberately created that someone was in the employ of the Security Branch and the person was subsequently killed by 'comrades' or, as in Natal, dropping UDF supporters in known Inkatha strongholds or 'no-go' areas where they had little chance of survival. At the other end of the spectrum, it included the fomenting of divisions within communities that led to more widespread killings. This approach had the added benefit of conveying the impression to white South Africa and the international community that the problem South Africa experienced was one of so-called black-on-black violence (see below).

228 The Commission distinguished between four types of extra-judicial killings: targeted killings; killing following abduction and interrogation; ambushes where seemingly little or no attempt was made to effect an arrest, and entrapment killings. Information about extra-judicial killings was drawn largely from amnesty applications, most of which were yet to be heard at the time of reporting, and thus largely untested. Where these applications are used, no conclusive finding is made by the Commission. Where amnesty applications have been heard and granted, and reliance is placed upon such applications, the Commission has also not made specific findings, as the finding of the Amnesty Committee constitutes the finding of the Commission.

229 It needs to be noted, further, that there were often no independent witnesses to these killings. Aside from the difficulties this poses in relation to corroboration, it poses even larger problems for victims. That the last moment in a victim's life should be recorded for posterity through the voices and versions of those who killed them is of itself an act of violence. This needs to be acknowledged and remembered.

## **Targeted killing**

230 Targeted killings refer to those which aimed to ensure the victim's 'permanent removal from society'. In most instances, targets for such killings were those whom the security forces perceived as a threat but were unable to charge, either for lack of evidence or because they feared it would lead to greater mobilisation. The people concerned were frequently high-profile political figures.

### ***Richard Turner***

231 Dr Richard Turner [KZN/KP/001/DN], killed at his Durban home shortly after midnight on 8 January 1978, was one such figure. Details of Turner's killing are documented in Volume Three. The Commission's Investigation Unit concluded that the police investigation that followed his assassination "was so poorly conducted, that it gives the impression of complete lack of competence or deliberate negligence from the investigators and their superiors". Amongst other things:

- a The crime scene was not properly secured; no forensic examination report was made of actions taken at the crime scene; the bullet was found, not by the police, but by Turner's former wife the day after the killing by simply following a line from the bullet hole.
- b None of the neighbours, their servants or people moving around the area at the time were questioned, including a neighbour, Mr Jack Tubb, who acted as a security police informer and who was seen walking around his garden with a 9mm pistol shortly after Turner's death.
- c Bureau of State Security (BOSS) agent Martin Dolincheck, whose name appears in the investigation diary on 25 January 1978 with the comment "the integrity and movements of him are strongly to be suspected" was never questioned or asked to give a statement.
- d On 1 February 1978, investigating officer Brigadier Chris Earle noted that "Due to the delicate nature thereof, not all possible information and leads are written down. The situation will first be explored further."
- e The investigation was closed by Major Groenewald and/or his superior Brigadier Hansen in November 1978 before the inquest was held and shortly after investigating officers were advised by their superiors not to waste time on the investigation into Dolincheck, because there was no evidence of his involvement.

232 While the Commission was unable to establish the exact identity of the assassin, evidence supported the widely held view that Turner had been killed by members of the security forces. In a section 29 hearing, Brigadier Earle was asked whether he believed the killing had been planned and engineered by officers superior to himself. He responded, "I would not say people above me or higher than me but people who were part of the security forces and that they wanted to protect this and not have it known". Martin Dolincheck told the Commission that he had visited Turner shortly before his death, apparently as part of an assessment as

to whether his banning order should be renewed, but denied any part in his killing. He suggested that Turner's death was a result of an intimidation action "gone wrong" and that he had been killed by a ricocheting bullet.

233 Suspicion has also been cast on the 'Z-squad,' an operational unit of BOSS that was alleged to have been involved in such operations. A member of the former NIS, now a high-ranking NIA official, confirmed that Z-squad member Phil Freeman had the necessary technical expertise and had allegedly been involved in an intimidation action in which a gunshot was fired through the front door of the Reverend Theo Kotze's house. At the time, Kotze was the Western Cape director of the Christian Institute, a structure that had not only been the target of considerable police harassment but had also initiated the SPROCAS project, in which Turner had also participated. However, a passport held by Freeman reflects that he was in France at the time of Turner's killing.

THE COMMISSION FINDS THAT DR RICHARD TURNER WAS KILLED BY UNKNOWN MEMBERS OF THE SECURITY FORCES. THE COMMISSION WAS, HOWEVER, UNABLE TO DETERMINE ON WHOSE ORDERS OR WHICH COMPONENT OF THE SECURITY FORCES WERE INVOLVED. THIS FINDING DOES NOT PRECLUDE THE POSSIBILITY THAT THE KILLING OF DR TURNER WAS NOT INTENTIONAL AND THAT THE INTENTION WAS INTIMIDATORY. EVEN IF THIS WAS THE CASE, THE POSSIBILITY OF INJURIES OR DEATH ARISING OUT OF SUCH AN ACTION SHOULD HAVE BEEN FORESEEN.

### ***Griffiths Mxenge***

234 Mr Griffiths Mxenge, a prominent Durban lawyer, was stabbed to death on 19 November 1981. The Commission received amnesty applications from Captain Dirk Coetzee [AM0063/96], commander of C1, the Vlakplaas unit; Vlakplaas members Constable Butana Almond Nofemela [AM0064/96] and Constable Ntshavheni David Tshikilange [AM0065/96]; and Brigadier WAL du Toit [AM5184/97], a member of the Security Branch's technical division. In addition, Brigadier Willem Schoon [AM4396/96], head of the C section of Security Branch headquarters, said he had knowledge of the killing.

235 Coetzee's version was that the Vlakplaas unit was operating under the command of the Durban Security Branch at the time, specifically Brigadier van der Hoven and Andy Taylor. Coetzee had previously been involved in various cross-border actions while stationed at Oshoek (at which time Brigadier van der Hoven had been divisional commander of the Eastern Transvaal Security Branch). Before the amnesty application was heard, the above applicants, together with Taylor and Van der Hoven, were charged with Mxenge's murder. Taylor and Van der Hoven were acquitted by the court, but the Commission's Amnesty Committee

noted that, although it could not ascertain exactly who had given the order, it believed that the operation had been authorised by "one or more senior members of the Security Branch". Amnesty was granted to the above applicants. (See also Volume Four.)

### ***Siphiwe Mthimkulu and Topsy Madaka***

236 On 14 April 1982, Mr Siphiwe Mthimkulu [EC0034/96PLZ], a COSAS activist with links to the ANC in Lesotho, disappeared with fellow activist Mr Tobekile 'Topsy' Madaka [EC0766/96PLZ]. The Commission received amnesty applications for their killing from Captain Gideon Nieuwoudt [AM3920/96], Major General Nick Janse van Rensburg [AM3919/96], Major Hermanus Barend du Plessis [AM4384/96] and Major General Gerrit Erasmus [AM4134/96]. Colonel Eugene de Kock [AM0066/96] said he had knowledge of the operation.

237 Mthimkulu was detained in 1981 and subjected to severe torture. After his release, he instituted a claim against the Minister of Police for torture. He later became seriously ill and was diagnosed as having been poisoned with thallium. Thallium is not widely available in South Africa, but had been researched by the security forces and had been in the possession of the security police counter-insurgency unit *Koevoet* since 1979. On 2 April 1982, Mthimkulu instituted a second claim against the Minister of Police, this time for poisoning. On 14 April, Mthimkulu and Madaka disappeared.

238 About a week after their disappearance, Madaka's car was found at Sterkspruit in the Transkei, near the Tele Bridge border post with Lesotho. Ms Mthimkulu searched relentlessly for her son; the Security Branch maintained the fiction that the two had left the country by getting someone to phone Ms Madaka to say they were safe. Police also conducted a search of the Madaka house and, as late as 1986, searched the Mthimkulu house, alleging that Siphiwe had been trained as a guerrilla and was back in Veenplaas. Minister of Police Louis le Grange said in Parliament that the police had no knowledge of Siphiwe's whereabouts.

239 The Amnesty Committee heard that Mthimkulu and Madaka had been abducted and taken to Post Chalmers, an abandoned police station near Cradock, where they were interrogated, drugged and finally shot in the head. Their bodies were burnt on a wooden pyre and their remains thrown in the Fish River. The applicants denied any knowledge of Mthimkulu's earlier poisoning.

THE COMMISSION IS SATISFIED THAT ALL EVIDENCE POINTS TO THE FACT THAT MTHIMKULU WAS DELIBERATELY POISONED BY THE SECURITY BRANCH, AND HOLDS ACCOUNTABLE THOSE RESPONSIBLE FOR HIS DETENTION. IN ADDITION, IT IS CLEAR THAT THE SECURITY BRANCH ACTIVELY PARTICIPATED IN AN ELABORATE AND SUSTAINED COVER-UP OF THE KILLING OF MTIMKULU AND MADAKA AND THAT THIS COVER-UP WENT AS FAR AS PARLIAMENT.

### ***The PEBCO Three***

240 Sipho Hashe [EC0003/96PLZ], Mr Champion Galela [EC0005/96PLZ] and Mr Qaqawuli Godolozi [EC0004/96PLZ], members of the Port Elizabeth Black Civic Organisation (PEBCO), an affiliate of the UDF, were abducted on 11 May 1985 by members of the Port Elizabeth Security Branch, taken to Post Chalmers and killed. Their bodies were subsequently thrown into the Fish River. *Askaris* from the Vlakplaas unit assisted in the operation. The Commission received amnesty applications for their killing and/or circumstances surrounding their killing from Major Herman Barend du Plessis [AM4384/96], Major GJ Lotz [AM3921/96], Captain Gideon Nieuwoudt [AM3920/96] and Warrant Officer Johannes Koole [AM3748/96], amongst others.

241 Shortly before the killing, a high-powered political delegation including State President Botha and Ministers Vlok and Malan visited the strife-torn Eastern Cape. Numerous security force personnel testified to the fact that they were informed that the area had to be stabilised at all costs and that they had to do whatever was required to achieve this – no holds barred. As Port Elizabeth Security Branch member Harold Snyman [AM3918/96] put it: “Pressure was exercised from the Government’s side to act in a drastic way to neutralise activists and to help the security situation to normalise”.

242 Evidence led before the Amnesty Committee indicates that Hashe, Galela and Godolozi went to the Ben Schoeman airport in Port Elizabeth after receiving a telephone call from an English-speaking Security Branch member, posing as a British Embassy official. Security Branch members, with the help of Vlakplaas *askaris*, abducted them before they entered the terminal. They were then taken to Post Chalmers where, according to the Security Branch members, they were given sedatives in coffee, then executed. This version is contradicted by the evidence of *askaris*. The *askaris*’ version is that first Galela was interrogated and tortured to death. With his body in full view, Hashe was brought out and subjected to unremitting torture until he, too, died. Godolozi spent the night in a garage with the bodies of Galela and Hashe and the following morning suffered the same fate. Their bodies were thrown into the Fish River.

243 Evidence received by the Commission subsequent to the amnesty hearing indicates that a person attached to the British Embassy may well have been involved in setting up the meeting that lured the three to the airport. While the Commission is in possession of this person's name, it was unable to follow up or ascertain whether, if this was so, the person acted in an informed or unwitting capacity.

244 The killing of the PEBCO Three demonstrates the co-operation between Vlakplaas and divisional Security Branch offices. Unlike the Mxenge case, the Port Elizabeth security police have said that they were responsible for identifying the targets and initiating and conducting the operation. It is thus clear that Vlakplaas-based *askaris* acted in a supportive capacity, under the command of the Port Elizabeth Security Branch.

### ***The Cradock Four***

245 Some six weeks after the abduction and murder of the PEBCO Three, UDF activists Mr Matthew Goniwe [EC0080/96NWC], Mr Sparrow Mkhonto [EC0029/96NWC], Mr Fort Calata [EC0028/96NWC] and Mr Sicelo Mhlauli [EC0079/96NWC] were abducted and killed outside Port Elizabeth on 27 June 1985.

246 At the time of his death, Goniwe was rural organiser for the UDF. He had previously served time in Transkei for a political offence and while in Cradock had been suspended from his teaching post. An attempt was made to have him transferred to a school outside Cradock, in order to put an end to campaigns protesting against his suspension; this, however, only intensified protest.

247 Mkhonto and Calata were members of the Cradock Residents' Association and Mhlauli was active in the Oudtshoorn Youth Organisation and a community newspaper, *Saamstaan*. Before their deaths, they had all been frequently detained, tortured, threatened and harassed. At the time, great efforts were being made by the security forces to stabilise the security situation in the Eastern Cape, in particular the rising resistance in rural areas. Cradock itself was seen as a model of organisation by the UDF in the eastern Cape and elsewhere in the country.

248 The 1987 inquest into the deaths found that they had been killed by unknown persons. The inquest was re-opened in 1993, after the disclosure of a signal message from the SADF's Eastern Province Command to the SSC Secretariat calling for Goniwe's "permanent removal from society". The inquest judge ruled that:

*In my opinion there is prima facie proof that it was members of the security forces that in fact carried out the murders. It was proved further that Mathew Goniwe was a thorn in the flesh of the security forces ... referred to as an enemy of the state whose activities had to be curtailed or terminated.*

*It has also been proved prima facie in my opinion, that the signal sent by Colonel du Plessis on the instructions of Brigadier van der Westhuizen to Major General van Rensburg was a recommendation that Matthew Goniwe, Mbulelo Goniwe and Fort Calata should be killed, and that this was the meaning Colonel du Plessis and Brigadier van der Westhuizen intended the signal to have.*

- 249 However, the identity of the perpetrators remained unknown until amnesty applications were received from the following members of the Port Elizabeth Security Branch: Major General Nick Janse van Rensburg [AM3919/96], Major GJ Lotz [AM3921/96], Lieutenant Colonel Eric Taylor [AM3917/96], Colonel Harold Snyman [AM3918/96] and Major Hermanus Barend du Plessis [AM4384/96]. Eugene de Kock [AM0066/96] and Captain JM 'Sakkie' van Zyl [AM 5637/97] applied for amnesty for knowledge relating to the killings.
- 250 The amnesty applications reveal that, on the night of 27 June, the 'Cradock Four' were returning from a UDF meeting in Port Elizabeth, when they were abducted at the Olifantshoek pass. The four were shot and/or stabbed, and their bodies mutilated in order to turn suspicion away from the security forces. Their burnt bodies were found near Bluewater Bay during the following week.
- 251 At the time, an attempt was made to suggest that their deaths were as a result of ongoing and violent conflict between the Azanian People's Organisation (AZAPO) and the UDF in the Eastern Cape. The Commission found evidence that this strategy was formulated by the Strategic Communications Branch of the SSC Secretariat.
- 252 One of the amnesty applicants, JM 'Sakkie' van Zyl, was known to be a CCB operative. The Commission was unable to establish whether his link with the SADF preceded the killing of the Cradock Four, thus indicating possible military involvement.

**THE COMMISSION WAS UNABLE TO MAKE A FINDING ON THE KILLING OF THE CRADOCK FOUR AS, AT THE TIME OF REPORTING, THE AMNESTY COMMITTEE HAD STILL TO MAKE A DECISION. HOWEVER, THE COMMISSION DOES FIND THAT THE ATTEMPT TO LAY THE CRIME AT THE DOOR OF AZAPO IN THE EASTERN CAPE WAS NOT ONLY A CASE OF DISINFORMATION, BUT A DELIBERATE ATTEMPT TO STOKE CONFLICT THAT HAD ALREADY CLAIMED LIVES IN THE EASTERN CAPE.**

### ***Victoria Mxenge***

253 Civil rights lawyer Ms Victoria Mxenge (43), lawyer for the UDF treason trialists and wife of slain Griffiths Mxenge, was shot and axed to death outside her Umlazi home in Durban on 1 August 1985. The killing, carried out by four men, two of whom were armed, was witnessed by her son Mbasa and the Reverend Xundu, Natal UDF chairperson. At the time, Mxenge was the instructing attorney for the accused in the Pietermaritzburg UDF treason trial and secretary/treasurer for the Release Mandela Committee (RMC).

254 The Commission received various accounts of who was responsible for this assassination. In a statement to the Commission, *askari* Jimmy Mbane says that *askari* Thabiso Sphamla confessed to him, while drunk, that he and three other *askaris* – Eric Maluleke, Peggy Hadebe and ‘Samuel’ – had killed Victoria Mxenge. They were paid for the operation when they returned home from Durban.

255 Mr Pat Hlongwane of the Returned Exiles Committee said that he shared a cell with a Mr Bongani Malinga (aka Marvin Sefako) at Quatro camp during 1988, and that Sefako claimed that he had killed Victoria Mxenge on orders from Captain Dirk Coetzee of Vlakplaas. While this version is challenged by the fact that Coetzee had left Vlakplaas long before 1985, the identity of the perpetrator is corroborated in the ANC’s second submission. The ANC alleges that Martin Sefako was recruited by Sergeant Skekheshe Ntombela of the Security Branch in March 1985 or earlier. He was handled by Ntombela and a Brigadier Pieter Swanepoel and underwent training from March 1985 to September 1985. The training is alleged to have included poisoning food and the use of firearms.

256 Sefako is alleged also to have been involved with other operatives in other unlawful acts conducted on behalf of the Security Branch, including the fatal stabbing of Mr Eugene Nunu Kheswa on 3 June 1986; a vehicle attack on Nelisiwe Lamola, and the killing of Ms Thandi Poswa, an associate of the Reverend Xundu in Clermont. This latter killing was witnessed and reported to the SAP by Ms Nelisiwe Octavia Lamola, a student at Ziphatele High School. Concerning Ms Mxenge, Sefako is alleged to have confessed: “I shot her five times on the chest but she never fell, where I followed her with an axe and chopped her next to her dining room door”.

257 Hlongwane claims that Sefako returned to South Africa after the unbanning of the ANC but was subsequently killed, allegedly by IFP supporters.

258 Aside from Mbane's statement, the above confessions come from people held in ANC custody and thus an element of duress cannot be excluded. However, the assertion that the killing was a security force operation is common to all three versions. (See also KwaZulu/Natal regional profile.)

**THE COMMISSION FINDS THAT MS VICTORIA MXENGE WAS KILLED BY, OR ON THE ORDERS OF, UNKNOWN MEMBERS OF THE SECURITY FORCES, AND THAT HER DEATH WAS A GROSS HUMAN RIGHTS VIOLATION WHICH ENTAILED DELIBERATE PLANNING ON THE PART OF THE SAID SECURITY FORCES.**

***Toto Roy Dweba***

259 The Commission received a statement from Ms Virginia Vuyiswa Dweba [KZN/NN/288/DN] concerning the killing of her son, Mr Toto Roy Dweba, in Mthunzini on the Natal north coast on 20 August 1985. Dweba, a UDF and Natal Freedom Charter Committee member, was the brother-in-law of MK member Mduduzi Guma, killed in the 1981 Matola raid. Evidence given in a section 29 enquiry by Security Branch member Vusi Ismael "Spyker" Myeza indicates that Dweba was suspected of being a courier of guns for the ANC from Swaziland.

260 Dweba's wife, Ms Daphne Dweba [KZN/MR/492/DN], said that her husband was abducted from his place of work on 19 August 1985. He was fatally stabbed and mutilated in Eshowe on 20 August 1985. She said that she had received strange phone calls, and suspected that the caller was responsible for the abduction and killing. On 22 August 1985, the police informed Mrs Dweba that her husband had been found dead. On 27 August, a petrol bomb was thrown at the Dweba house.

261 Toto Dweba was buried on 5 September 1985. Two weeks after the funeral, his hands were found in a plastic bag in a cane field. The hands were taken to Pretoria for forensic tests. Some weeks later, Dweba's uncle, police officer Maxwell Dweba, was contacted by the Empangeni police station and told to fetch his nephew's hands, which were then buried.

262 Three months after the burial, an unknown white man in civilian clothing sought out Maxwell Dweba and took him to a white Ford Escort in Gillespie Street, Durban. In the boot were his dead nephew's clothes, which the unknown white man said were "from Pretoria".

**THE COMMISSION FINDS THAT TOTO DWEBA WAS KILLED BY, OR ON THE ORDERS OF, UNKNOWN SECURITY FORCE MEMBERS, AND THAT HIS DEATH WAS A GROSS HUMAN RIGHTS VIOLATION WHICH ENTAILED DELIBERATE PLANNING ON THE PART OF THE SAID SECURITY FORCES.**

### ***Florence Ribeiro and Fabian Ribeiro***

263 On 1 December 1986, Dr Fabian Ribeiro and his wife Florence were assassinated outside their home in Mamelodi. Shortly thereafter, a vehicle identified by witnesses was traced to Mr Noel Robey [AM5470/97], an SADF Special Forces operative. No one was charged with the killing. Those who applied for amnesty in respect of the killing were Brigadier Jack Cronjé [AM2773/96], then divisional commander, Northern Transvaal, Captain Paul van Vuuren [AM6528/97], Captain Jacques Hechter [AM2776/96], Major General AJM ‘Joep’ Joubert [AM3799/96], then officer commanding SADF Special Forces, Commandant (Lieutenant-Colonel) Charl Naudé [AM5453/96] and Mr Noel Robey [AM5470/97], a Special Forces operative.

264 Evidence from amnesty applications suggests that the killing of the Ribeiros was a joint Northern Transvaal and SADF Special Forces operation. Joubert indicates that, in early 1986, he was instructed by the chief of the defence force, General JJ Geldenhuys, that Special Forces was to provide support for the Security Branch. In terms of this instruction he drew up a plan identifying three ‘hotspots’ – the Northern Transvaal, the Witwatersrand and the eastern Cape – to be stabilised by joint Special Forces and Security Branch operations. According to Joubert, his plan was approved by General Geldenhuys at a social function. Geldenhuys denies this.

265 Believing that the plan had been authorised, Joubert assigned Charl Naudé to the Northern Transvaal and Colonel Joe Verster to the Witwatersrand. Because internal security was the responsibility of the SAP, Special Forces operatives were to act in support of the Security Branch. This meant that each operation needed to be authorised by the Security Branch before Special Forces operatives could participate. Their function was to meet with the Security Branch in the assigned areas and decide on joint operations. Such operations included killing. Amnesty applicants further indicate that such killings occurred after targets had been identified at joint meetings attended by other high-ranking SADF officials.

266 The assassination of the Ribeiros was conducted according to this plan. At the hearing on the armed forces, the Commission heard that Lieutenant General Ian Gleeson (then acting chief of the SADF) and General JJ Geldenhuys were informed of the involvement of Special Forces in the killing of the Ribeiros. General Geldenhuys conceded that he had not drawn this information to the attention of the Attorney-General or the investigating officers.

267 According to Security Branch amnesty applicants, the Ribeiros were targeted because Dr Ribeiro provided medical assistance to people injured in security force action and allegedly provided financial assistance to those wishing to leave the country. Despite extensive cross-examination, amnesty applicants were unable to provide one specific case of support and conceded that the Security Branch had no file on Ms Ribeiro. Mr Chris Ribeiro [JB3488/02PS] said that, following a period in detention in the early 1980s, his father had decided to limit his political role to providing professional medical assistance.

THE AMNESTY COMMITTEE HAD NOT MADE A FINDING ON THE RIBEIRO CASE AT THE TIME OF REPORTING. HOWEVER, THE COMMISSION DOES FIND THAT, BY WILFULLY WITHHOLDING INFORMATION PERTINENT TO THE IDENTITIES OF THE PERPETRATORS FROM THE SAP INVESTIGATING TEAM, GENERAL JJ GELDENHUYSEN AND LIEUTENANT GENERAL I GLEESON ACTED IN AN OBSTRUCTIVE MANNER FOR WHICH THEY ARE LEGALLY RESPONSIBLE.

#### ***Joe Tsele***

268 Mr Joe Tsele, a UDF activist who had earlier served time on Robben Island, was shot dead at his home in Bophuthatswana on 6 May 1987. The Commission received amnesty applications from Brigadier Jack Cronjé [AM2773/96], Captain Jacques Hechter [AM2776/96] and Major Sarel 'Sakkie' Crafford [AM5468/97].

269 Crafford says he believed that Tsele was responsible for arranging safe houses for ANC members. Cronjé, Hechter, Mamasela and another *askari* went to reconnoitre Tsele's house to establish whether it was indeed being used as a safe house. Hechter added that, if their suspicions were confirmed, they were to eliminate Tsele.

270 While Cronjé and Hechter waited in the car, Mamasela and a fellow *askari* whom he identifies as Mbatha moved towards the house, armed with AK-47s. Through a window they saw a man watching the television, and identified him, from a photo, as their target. According to Mamasela:

*Because there was burglar-proofing across the window and I and Mbata were worried that a bullet could be deflected back against it, we decided to push our AK-47 rifles through the window at the same time and fire at the man on full automatic. We then pushed our weapons through the window and fired at the man. I saw blood splashing and the man's body jerking. Because the weapons were on automatic firing I cannot say how many shots Mbata and I fired. It was quite a number at any rate. (Commission translation.)*

271 Several days later Cronjé sent Mamasela and Mbatha back to Makapanstad to ascertain whether Tsele had been successfully killed.

272 The amnesty applicants claim that Joe Mamasela acted without authorisation in this case. Yet there is no evidence to suggest that he received any kind of rebuke from his superior officers, nor that he was subjected disciplinary procedures. This suggests, at the very least, a *post hoc* authorisation and legitimation for future actions of this kind.

***David Webster***

273 Dr David Webster [JB00218/01GTSOW] was shot outside his home in Troyeville, Johannesburg on 1 May 1989. He died some twenty minutes later. The Commission received two amnesty applications about the circumstances surrounding his killing, but none concerning the killing itself. During the life of the Commission, however, a CCB operative, Mr Ferdinand Barnard, was charged and convicted with the murder of Webster.

274 Dr Webster was a well-known human rights activist, a member of the Detainees' Parents' Support Committee (DPSC) and vice-chairperson of the Five Freedoms Forum, an affiliate of the UDF. As an anthropologist, Webster went on regular field trips to Kosi Bay in Northern Natal and it was rumoured that he had possibly stumbled on evidence of the ongoing supply of weapons to RENAMO or of ivory smuggling. The Hiemstra Commission, set up to investigate a spy-ring with military links in the Johannesburg City Council, heard evidence that Dr Webster had been under surveillance.

275 There were several eyewitnesses to the shooting. Ferdinand Barnard was later detained under section 29 of the Internal Security Act but, although he gave information leading to the disclosure of the existence of the CCB and the detention of a number of other CCB members, the identity of Webster's killing was not revealed.

276 In addition to an official inquest, Webster's killing was examined by the Harms Commission and by an internal military/police investigation into General IJ 'Krappies' Engelbrecht. While the CCB and Barnard in particular were frequently raised as possible suspects, no one was charged with the killing at the time.

277 While the Commission was investigating the matter, however, investigators were informed of the Transvaal Attorney-General's decision to prosecute. In June 1997 the Commission told the Attorney-General's office that it would not continue investigating the Webster case. Mr Ferdinand Barnard was arrested and subsequently charged and convicted of the killing of Dr Webster.

### **Abduction, interrogation and killing**

278 This section deals with a different category of killings – where the primary purpose was to obtain information, and death followed, apparently in order to protect the information received. Victims in almost all of these cases were suspected of having links with underground military structures or with networks that provided support for such structures. The purpose of interrogation was to gather intelligence on issues such as *modi operandi*, guerrilla infiltration routes and possible planned operations. This information was considered vital, not only to enable counter-measures to be taken, but for the ongoing and effective penetration of such structures by agents or *askaris*.

279 Amnesty applicants suggested that such intelligence had value only for as long as the 'enemy' was not aware that the information had been uncovered. Detainees – even those kept in solitary confinement – sometimes managed to smuggle out information about their detention and interrogation. Moreover, in the nature of clandestine work, once a detention was known about, old routines, codes and meeting places would be regarded as compromised and therefore changed. It was for this reason, the Security Branch argued, that it was preferable to abduct rather than officially detain, and to kill the abductee once information had been extracted. In some instances, the Security Branch attempted to 'turn' (recruit) the individual; where this proved unsuccessful, killing was regarded as necessary.

280 This *modus operandi* allowed for greater freedom to torture without fear of consequences. It should also be noted, as is evident in some of the cases below, that confessions and admissions were sometimes obtained only after brutal torture. The possibility that a number of people so targeted had no real link to underground military structures cannot be excluded.

#### ***Gcinisizwe Kondile***

281 Eastern Cape political activist Gcinisizwe Kondile [EC0021/96STK] was killed by the security police in August 1981. Mr Kondile was first detained by the security police in 1980 while a student at Fort Hare University. After his release, he fled

to Lesotho where he continued to be politically active. In June 1981, he was apprehended by the security police after entering the country in a car owned by Chris Hani.

282 Amnesty applicants have presented two different versions of the circumstances leading to Kondile's death. Captain Dirk Coetzee [AM0063196] says that Kondile was transferred to Jeffrey's Bay in the eastern Cape where he was held for two months and severely tortured. So serious was his condition that the police feared he would die. Deciding they could not afford "another Biko", the upper management of the Security Branch decided he should be killed and all evidence of his existence destroyed. This version is confirmed by a Sergeant Danster who guarded Kondile at the Jeffrey's Bay police station. Danster referred to the use of torture, including 'tubing', electric shock and assault.

283 To cover their tracks, the security police officially released Kondile from custody on 11 August 1981 and then immediately re-arrested and held him secretly in the 'white' quarters of the Jeffrey's Bay police station.

284 C section head, Brigadier W Schoon, ordered Dirk Coetzee to meet with Major Archie Flemington from the local security police office at Komatipoort. The Port Elizabeth Security Branch arrived at Komatipoort with Kondile, who was then taken by a group of security police members – including Coetzee, Flemington, Nick Janse van Rensburg, Sergeant JG Raath [AM4397/96], Captain Paul van Dyk and two others from Ermelo – to an isolated spot near Komatipoort. Here he was drugged with "knock-out" drops acquired from General Lothar Neethling's police forensic laboratory, shot and cremated over a log fire for seven hours until all traces of his body had been destroyed. During the cremation, the group drank and cooked meat at a separate 'braai'. Coetzee related:

*The burning of a body to ashes takes about seven hours, and whilst that happened we were drinking and even having a braai next to the fire. Now, I don't say that to show our braveness, I just tell it to the Commission to show our callousness and to what extremes we have gone in those days ... the chunks of meat, and especially the buttocks and the upper part of the legs, had to be turned frequently during the night to make sure that everything burnt to ashes. And the next morning, after raking through the rubble to make sure that there were no pieces of meat or bone left at all, we departed and all went our own way.*

285 Other amnesty applicants disputed this version of events. The Port Elizabeth Security Branch applicants stated that Kondile was transferred to their region after interrogation in the Orange Free State. After two weeks of interrogation with assault at the Jeffrey's Bay police station, Kondile agreed to act as an informer. However, Major Du Plessis [AM4384/96] alleges that he then personally discovered a concealed note from Kondile to the ANC. Du Plessis realised that Kondile had deceived him. Kondile had been briefed about Du Plessis's informer network (including a person in the UNHCR who provided photographs of refugee applicants to the police) which would now be compromised. After discussions with his immediate superior Nick Janse van Rensburg and the Divisional Commander, then Colonel Gerrit Erasmus [AM4134/96], it was decided that Kondile should be killed.

286 Kondile was taken near Komatipoort where they met with Captain Dirk Coetze. He was tied to a tree and shackled, given some food and cold drinks, after which he became unconscious. Sergeant Roy Otto (now deceased) then shot him through the head, after which his body was placed on a wood fire and burnt until morning.

#### ***Nokuthula Simelane***

287 According to amnesty applicant Lieutenant-Colonel Anton Pretorius [AM4389/96], the Soweto Intelligence Unit (SIU) had in 1983 succeeded in penetrating and infiltrating MK structures in Swaziland. Deep-cover agents RS269 and RS243 had succeeded in gaining information about arms caches, infiltration routes, lines of command and so on. Through a Soweto-based source, SWT 66, they had managed to establish the linkages between the Swaziland structures and MK's Transvaal military structures.

288 During 1983, they received information that a courier from Swaziland was expected in Johannesburg. The courier, Ms Nokuthula Aurelia Simelane (aka MK Sibongile), arrived in Johannesburg in September 1983 and was abducted by the SIU from the parking lot outside the Carlton Hotel where she had planned to meet her contact. She was initially taken to the Custodum police flats in Norwood and kept for several days in a tenth-floor storeroom. During this time she was intensively interrogated and, according to an amnesty applicant, badly beaten.

289 From Norwood, Simelane was taken to a farm near Thabazimbi, where she was apparently kept in an outbuilding for a month, possibly two.

290 According to amnesty applicants Anton Pretorius and Lieutenant Colonel Willem 'Timol' Coetzee, [AM4032/96] then head of the SIU, she agreed during her initial

interrogation and torture to become an agent for the Security Branch and her removal to the farm had been organised to facilitate the necessary training. Coetze claims that the arrangements surrounding this recruitment were discussed with his superior officer as well as with Section C at Security Branch headquarters. Pretorius and Coetze said that, after three weeks, Simelane returned to Swaziland but that all subsequent pre-arranged contact and communication with her failed. These applicants said they believe that her defection was discovered by MK and that she was killed as a consequence.

- 291 A number of other members of the unit involved in her abduction also applied for amnesty. At least one of these, however, disputes the Coetze/Pretorius version. According to this applicant, Simelane continued to be tortured at the farm in Thabazimbi. After about two months, she was put in the boot of the car, handcuffed and in leg-irons, and driven away. This was the last that black members of the unit saw of her. Her physical state at the time was such that returning her to Swaziland would not have been possible. "She was very beautiful. But by the time they were finished with her, she could not be recognised."
- 292 The applicant indicated that, after he was back in Soweto, he asked one of his superiors about Simelane and was told not to ask questions. He subsequently heard that she had been shot and buried in Rustenburg.

### ***Japie Maponya***

- 293 Mr Japie Maponya [JB02090/03WR] was abducted by Vlakplaas *askaris*, interrogated and subsequently killed. Amnesty applicants included General JH le Roux [AM4148/96]; Colonel Eugene de Kock [AM0066/96] head of C1/Vlakplaas, Warrant Officer Willie A Nortjé [AM3764/96]; Constable TJ Mbalo [AM3785/96] and Sergeant DJ van der Walt [AM3769/96].
- 294 According to applicants, a request for assistance was submitted to security headquarters by Colonel Johan le Roux, head of the Krugersdorp Security Branch (later a general who commanded the Security Branch). On instructions from Security Branch headquarters, a team under Warrant Officer Willie Nortjé, with which De Kock later linked up, was deployed to Krugersdorp. Japie Maponya, a security guard, was abducted from Krugersdorp by Mbalo and two other *askaris* and taken to Vlakplaas for questioning about the activities of his brother, MK operative Odirile Maponya (MK Mainstay), who was suspected of involvement in the death of an SAP member, Warrant Officer Tswane.

295 Maponya was severely beaten by the *askaris*. Two security police from the Krugersdorp Security Branch were present during the interrogation and apparently participated. Tear gas was sprayed into his mouth, allegedly by De Kock (who denies this), but all efforts to extract information from him failed. De Kock and Willie Nortjé then took Maponya across the border to a plantation in Swaziland and killed him. De Kock struck him on the head with the sharp end of a spade and Nortjé shot him in the temple with a 9mm pistol. He was buried in the plantation.

296 This case had not been heard by the Amnesty Committee at the time of reporting. Among the matters to be canvassed will be whether the decision to kill Maponya came from Le Roux, as De Kock alleges, or whether Le Roux only gave an instruction for his abduction and interrogation. De Kock also alleges that, during the Harms Commission's investigation, the original telex from Le Roux to Special Branch headquarters, requesting Vlakplaas assistance, was destroyed after being brought to the attention of the then head of C section.

***Jackson Maake, Andrew Makupe and Harold Sefolo***

297 Mr Jackson Maake [JB02706/02PS], Mr Andrew Makupe [JB02699/02PS] and Mr Harold Sefolo [JB00104/02PS] were abducted in 1986 or 1987, interrogated and then killed. Amnesty applications in respect of their killings were received from Mr Sampina Bokaba [AM5460/97], Captain Jacques Hechter [AM2776/96], Warrant Officer Paul van Vuuren [AM6528/97] and Brigadier JH Cronjé.

298 Bokaba stated that he and a Warrant Officer van Wyk recruited Jackson Maake sometime in 1986. Later, he handled Maake jointly with Hechter and Van Vuuren. Maake was sent to Botswana to infiltrate ANC networks but, on his return, Hechter suspected Maake of being a double agent. He was picked up, taken to a deserted property owned by the Pretoria Portland Cement Mine some five to ten kilometres outside Messina and interrogated. Maake denied the allegation that he was a double agent, but after being subjected to electric shocks confessed that he was working for the ANC and gave the name of Makupe as his MK contact.

299 According to Van Vuuren, they then went to the Security Branch offices and drew Makupe's file which confirmed that he was a courier for the ANC. Makupe was abducted, taken to the mine property and interrogated. He told the Security Branch that Harold Sefolo was the MK operative who chose targets and acted as an ANC courier. Makupe was taken to a telephone box and instructed to call Sefola in Witbank, telling him that he would be collected by some ANC comrades

that night. That night, Mamasela and another *askari* abducted Sefolo. His interrogation began the next morning.

300 Van Vuuren described how Mamasela “forced a knife in Sefolo’s nose, after which he provided additional information. He also begged for his life.” In order to persuade him to provide more information, they shocked Maake to death in front of him. As they were preparing to do the same to Makupe, Sefola “asked if he could say something”. Van Vuuren said:

*I agreed to it. He asked if he could sing Nkosi Sikelel’ iAfrika ... He also claimed that the ANC would govern later, that apartheid would no longer be able to be maintained and that a democracy would be the end of the Boers. He also mentioned that the Security Police and Umkhonto weSizwe were the toys of the politicians. Mamasela had an ANC flag present which was with us then. He threw this over Maake while Sefola sang Nkosi Sikelel’ iAfrika. We then shocked Makupe to death.*

301 Sefolo himself was then shocked to death. Van Vuuren said they acted “under the instructions of Brigadier Cronjé” and “the purpose was to neutralise the cell”. The three bodies were loaded into a minibus and, somewhere on a road in Bophuthatswana, were placed on top of a landmine, which was detonated. The aim was to create the impression that they had blown themselves up, thus performing the dual function of turning suspicion away from the security forces and making MK soldiers look incompetent.

### ***Unknown activists***

302 Shortly after this incident, an unknown ANC operative alleged to be part of Harold Sefolo’s cell was abducted by Hechter and Bokaba and driven to a road in Bophuthatswana where Hechter strangled him to force a confession from him. When he refused to talk, Paul Van Vuuren strangled him to death with a wire. A tyre was then put around his neck, he was doused with petrol and set alight. In his amnesty application, Bokaba said that one of the purposes of ‘elimination’ was disinformation: “It was painted to be a struggle between blacks ... Voters were once again persuaded to vote for the National Party in the light of the black onslaught.”

303 Lieutenant Colonel WJ Momberg [AM4159/96] applied for amnesty in respect of the killing of an unknown MK member at some time between January and April 1986. The MK member was arrested by the Security Branch and taken to Mamelodi,

Pretoria, in order that he might identify safe houses being used for 'terrorist' operations. After a while, the police concluded that the MK member was misleading them. Momberg and a named captain began to slap him, punch him in the ribs, and knock him around. Despite the assault, they failed to extract any information from the unknown man.

304 They then took him to a quiet place in the Pienaar's River area to interrogate him further. The captain began the interrogation behind the minibus. When the victim would not co-operate, the captain grabbed his throat with both hands and shook him so that he landed in the boot of the minibus. When he stepped back from the minibus, the MK member was dead. When told about the death, Brigadier Cronjé gave orders that the body should be blown up with a landmine to render it unrecognisable.

305 Paul van Vuuren [AM6528/97] applied for amnesty in respect of the killing, in 1986 or 1987, of another unknown activist at Die Bron in the northern Transvaal. Van Vuuren could not remember why the victim was arrested. At some stage the victim was put into the boot of a car. Van Vuuren said that the activist may already have been dead at this point, but he could not remember much else about the incident. Other applicants include Brigadier JH Cronjé and Captain J Hechter.

### ***Stanley Bhila***

306 Mr Stanley Bhila, an MK member, was abducted and killed eighteen days after his acquittal in the Durban trial of Dudu Buthelezi and nine others. The charges included the Amanzimtoti bomb blast for which Andrew Zondo had already been convicted and executed.

307 Amnesty applicant Captain Frank McCarter [AM4378/96] stated:

*Bhila ... was acquitted ... I met Major Andy Taylor. He informed us ... that Bhila would continue with his terrorist activities now that he had been released. He requested us to kill him and we agreed ... We were fighting a war where the enemy was not bound by any rules ... I had to do things that went against my grain sometimes ... I did not regard them as morally wrong, although I realise that my acts were illegal.*

308 On 22 February 1987, Bhila was abducted, taken to a house on the South Coast and shot by McCarter with a 6.35mm pistol. His body was thrown over a

cliff in the Umbumbulu district, south of Durban. Sergeant LG Wasserman also applied for amnesty.

### **Ntombi Ngcobo (KhubeKA)**

309 Colonel Andy Taylor [AM4077/96], Captain HJP 'Hentie' Botha [AM4117/96], Captain Adrian David Baker [AM5284/97], Lieutenant Sam du Preez [AM4130/96], Sergeant LG Wasserman [AM4508/96], *askari* Jimmy Mbane and Sergeant CA "Cassie" van der Westhuizen [AM4388/96] applied for amnesty for the death of Ntombi Ngcobo (née Khubeka) in custody.

310 Security Branch amnesty applicants claim that Ngcobo (Kkhubeka) died of a heart attack during interrogation after having been abducted, and that her body was dumped in violence-torn Bhambayi. However, a body believed to be hers was exhumed by the Commission and was found to have a bullet wound to the back of the head.

311 It appears that the Security Branch believed that Ngcobo (Kkhubeka) was acting in a liaison capacity between externally and internally trained 'terrorists'. They suspected her of stashing arms, providing accommodation and gathering intelligence in connection with targets. Both her brother Themba and her sister Sibongile Khubeka were at ANC HQ in Lusaka.

312 According to *askari* Jimmy Mbane, he and two other *askaris* were instructed to infiltrate Ngcobo's group. The *askaris* convinced her that they were from exile and needed accommodation. Mbane alleges that, as a result of this infiltration, four people were killed – a man Ngcobo had introduced to *askari* Simon Radebe saying he needed a safe place; a man named Sbu, who was also introduced by Ngcobo (KhubeKA) and who was electrocuted; a friend of Sbu's, who was shot, and Ngcobo (KhubeKA) herself.

313 In May 1987, Mbane took Ngcobo (KhubeKA) to the old Railway Police Station in Winkelspruit where Captain Botha, Lieutenant Du Preez, Sergeant Wasserman and others were waiting. Ngcobo was tightly blindfolded, tortured by means of electric shocks and struck on the knees with beer bottles. Taylor claims that Ngcobo (KhubeKA) confessed to liaising with four externally trained guerrillas. She agreed to identify them on condition that her identity was not revealed, but then she suddenly went into convulsions and died. Her body was disposed of by Du Preez, Wasserman, and 'Hentie' Botha.

### ***Phumezo Nxweni***

314 Following the abduction and interrogation of Ms Phila Portia Ndwandwe in October 1988 (see chapters on *Gross Violations of Human Rights Committed by the State outside South Africa and Exhumations* in this volume), the Security Branch established that Mr Phumezo Nxweni [EC0246/96WTK] was the commander of an MK underground structure in Durban. Hentie Botha claims that this unit was responsible for thirteen explosions in the Durban area during 1988. Nxweni had been charged with these attacks, including the Amanzimtoti bomb, and acquitted.

315 On 4 November 1988, Captain 'Hentie' Botha, Lieutenant Sam du Preez and Cassie van der Westhuizen arrested Nxweni. He was taken to a safe house in Mount Edgecombe, near Durban, where, according to the Security Branch, he admitted under interrogation to his role in these and other acts of terror. He also admitted to the bombing of Rossburgh Railway station the previous night. They decided to "eliminate" him, the task being given to Andy Taylor, Lawrence Wasserman and Du Preez. Taylor explains:

*It was clear to me that he was a dangerous terrorist who would not stop his activities ... It was also apparent that there was insufficient evidence to remove him from society through the normal channels of the Court, due to the fact that he had already been acquitted.*

316 Nxweni was shot and buried in a sugar cane field adjacent to the safe house. His body was exhumed by the Commission.

### ***Vusumuzi Mtshali, Sibusiso Ndlovu and Mazwi Vilikazi***

317 In the days following Nxweni's killing, the Security Branch made contact with other members of his network through informers. An attempt to arrest two members of the unit failed, as they had fled to the Transkei. However, informers were able to infiltrate a KwaMashu unit and reported that this unit was planning to sabotage the Phoenix railway station. Du Preez, Wasserman and Botha arrested three members believed to be Mr Vusumuzi Mtshali, Mr Sibusiso Ndlovu and Mr Mazwi Vilikazi. Botha told the Commission:

*After their arrest, they were taken to the safe house where Colonel Andy Taylor was waiting for us, for questioning ... We decided that in the light of the fact that the three terrorists were not cooperative there would be no point in trying to convince them to co-operate ... A conviction would not*

*have been successful without the statements of the informers and we could not compromise them ... We could not release them because ... they were responsible for the acts of terrorism ... Accordingly we decided that the three must be eliminated by blowing them up on the railway line that they had identified as the target.*

*Colonel Taylor, Sam du Preez, and Laurie Wasserman rode with the three terrorists to the Phoenix Railway Station ... I ordered them to kneel side by side next to each other ... We each stood behind the person and removed our weapons ... I gave a nod of my head and we each shot the person in front of us with a single shot to the head. Sam put the limpet mines on the railway line and Laurie and I laid out the three corpses on the tracks ... After Sam activated the explosives, we left the scene in a vehicle. We were about a kilometre from the scene when the explosions occurred.*

318 General JA Steyn (then officer commanding, Port Natal Division), Colonel Andy Taylor [AM4077/96], Captain HP 'Hentie' Botha [AM4117/96], Lieutenant Sam du Preez [AM4130/96] and Sergeant LG Wasserman [AM4508/96] applied for amnesty for the killings.

### ***Blessing Ninela***

319 Ms Gretina Ninela (KZN/NN/404/DN) made a statement to the Commission about the disappearance of her son Blessing Ninela from Pinetown on 13 June 1988. According to Ms Ninela, her son had been detained with several others in January 1987. On 11 June 1988, some time after his release, two unknown people came to the house and left a note making an appointment for Ninela to meet them at the Pinetown post office on 13 June. He left to meet them and was never seen again.

320 Askari Ben Mwelase [AM6436/97] said in his amnesty application that he was involved in the abduction of a man from Pinetown post office while serving under Taylor. At a section 29 investigative hearing, Security Branch member Vusi 'Spyker' Myeza revealed that Ninela had been abducted and killed in Bulwer, and that Lieutenant Sam du Preez [AM4130/97] and Sergeant LG Wasserman [AM4508/96] then blew his body up on a railway line by means of a limpet mine. Ninela's body was discovered soon afterwards. His face was injured beyond recognition and one of his hands was missing. He could not be identified and was given a pauper's burial at Ixopo near Richmond a few weeks later. The remains of Blessing Ninela were exhumed by the Commission in August 1997.

## Ambushes

321 The Security Branch and later the SADF (who assumed responsibility for the security of South Africa's borders from 1984) expended much effort in uncovering infiltration routes and attempting to thwart infiltration by trained MK operatives. Such routes appear to have been highly compromised and a number of ambushes were laid for operatives attempting to re-enter South Africa. Because of the large number of ambushes resulting in the death of insurgents, the Commission came to the conclusion that ambushes became part of the proactive policy of the security forces. It appears, moreover, that little attempt was made to arrest those caught in such ambushes. Indeed, in some instances, amnesty applicants make it quite clear that the intention was to kill them.

### ***Jobe Ngwenya, Sihle Mbongwa and Henry Chiliza***

322 In April 1977, a Swazi citizen, Mr Jobe Ngwenya, who worked closely with the ANC as a courier, was stopped at a roadblock just inside South Africa. He was travelling with two MK cadres, Mr Sihle Mbongwa (aka Sihle Ndlanzi) and Mr Henry Chiliza. All three attempted to run from the roadblock. Chiliza managed to escape and made it back to Swaziland. Mbongwa was caught, detained and severely tortured. He was eventually released and fled the country.

323 The fate of Ngwenya is unknown; he has not been seen or heard of since. Mbongwa said he had seen a bundle of Ngwenya's bloodstained clothes at the Jozini police station.

**THE COMMISSION FINDS THAT, ON THE BALANCE OF PROBABILITIES, NGWENYA WAS KILLED BY MEMBERS OF THE SECURITY FORCES INVOLVED IN THIS AMBUSH, AND THAT HIS DEATH WAS A GROSS VIOLATION OF HUMAN RIGHTS.**

### ***Bushy Swartbooi, Sikhiri Ramokgopa and Andries Moatshe***

324 On 4 May 1983, two MK operatives, Mr Bushy Swartbooi (aka Solomon Mlonzi and Kruschev) and Mr Sikhiri Ramokgopa (aka Karl Marx) and a Botswana citizen and Security Branch informant, Mr Andries Moatshe, were shot and killed at Silver Valley near the Derdebos border post with Botswana. Moatshe was infiltrating the other two into South Africa and had informed Zeerust Security Branch member Colonel Philip Rudolph 'Rudi' Crouse [AM4125/96], of this.

325 After deciding to ambush and arrest the two, the head of Zeerust Security Branch, Colonel (later Brigadier) Wickus Loots, decided that they should be killed. That night all three, including the informer Moatshe, were shot and killed, after which a quantity of weapons were planted on their bodies. Others who applied for amnesty for this killing are the then head of Western Transvaal division, Major General Johannes Bertus Steyn [AM4513/97] (later Port Natal divisional commander); then head of the Zeerust Security Branch and later Western Transvaal divisional commander, Colonel Loots, and Lieutenant CJ du Preez Smit [AM4386/96]. Other applicants include: Sergeant Isak Johannes Marais [AM4151/96], Gideon Jacobus van Zyl [AM4372/96], Daniel Johannes Nieuwenhuis [AM4395/96] and Rudolf J Venter [A2776/96].

***Victor Mgadi and Oupa Funani:***

326 In May 1997, the Commission's Investigation Unit exhumed the bodies of two MK operatives who had been killed by security police near Piet Retief. Mr Victor Mgadi from Inanda in Durban and Mr Oupa Funani from Soweto were killed in separate incidents in 1982 after returning from Swaziland, and were buried in unmarked graves in Thandokukhanya cemetery at Piet Retief.

THE COMMISSION FINDS THAT MGADI AND FUNANI WERE KILLED AS A RESULT OF DELIBERATE PLANNING ON THE PART OF MEMBERS OF THE SECURITY POLICE, AND THAT THEIR DEATHS WERE GROSS HUMAN RIGHTS VIOLATIONS, FOR WHICH THE SECURITY BRANCH OF THE SAP IS ACCOUNTABLE.

***Unnamed MK members***

327 During 1986, information was received that MK members were planning to infiltrate South Africa via Ramotswa in Botswana. Lieutenant Christoffel Johannes du Preez Smit [AM4386/96] and a Warrant Officer Modise recruited an informant to infiltrate the group. Smit reported to his commander, Captain Frederick Crouse [AM4124/96] and to Colonel Loots, divisional commander of the Western Transvaal, in Potchefstroom.

328 In June 1986, the informer was due to pick up armed MK members in the Ramotswa area and take them to Krugersdorp. Loots organised for the Reaction Unit in Potchefstroom to help with the arrests at a place chosen by Smit on the road between the Botswana border and Zeerust. Smit later learned from the informant that the MK members had jumped out of their vehicle with their weapons and run towards the Reaction Unit and that one of them had apparently thrown a hand grenade.

329 Four people were shot dead in the ambush and the informant and Constable Wessels of the Reaction Unit were injured. There were AK-47s and hand grenades with the bodies of the dead. The bodies were taken to the Zeerust mortuary, an inquest was held and the deceased were identified as MK members. Smit does not recall their names.

***'Tallmen' Assen Jeremia Thimula, 'Bernard' Mbengeni Kone, Shadrack Sithole and others***

330 The 'Amsterdam' operation, which took place on 14 August 1986, was conducted by members of Vlakplaas in association with the Security Branch in Piet Retief in the Eastern Transvaal division.

331 Colonel Eugene de Kock alleged that they received information indicating that two ANC members responsible for planting landmines were planning other attacks, including an attack on a primary school. They decided to kill the operatives as well as those on the other side of the border who assisted with the infiltration.

332 The security police succeeded in recruiting a source who was responsible for transporting the MK operatives. As pre-arranged, the driver pulled over to the side of the road, and Mr 'Tallmen' Assen Jeremia Thimula from Venda, Mr 'Bernard' Mbengeni Kone from Diepkloof, Soweto and Mr Shadrack Sithole, the driver and a Swazi citizen, were all killed. Sithole, who was the brother of one of the *askaris*, was killed allegedly on the grounds that he was only interested in being paid. One of those who had assisted with the infiltration was also killed, while another who had managed to escape was arrested by forest workers the following day.

***Ambushes and farm shootings in the Alldays area***

333 A joint SAP/SADF ambush, leading to the death of six alleged MK members, took place on the Breslau Road near Alldays on 10 July 1986. The following applied for amnesty for this incident: Mr JH Kruger [AM4147/96], Mr LM Pretorius [AM4366/96], Mr MM Sehlwana [AM3747/96], Mr NS Coetzee [AM4121/96], Mr PA Dreyer [AM 4128/96], Mr JAN Strydom [AM4368/96], Senior Superintendent AJG Erwee [AM4135/96], Mr PTCJ Fourie [AM4137/96], Mr PPF Fuchs [AM4138/96], Mr FCS Swarts [AM4512/96], Mr JP van den Berg [AM4367/96], Mr WJ van der Merwe [AM4380/96] Mr JH van Dyk [AM4370/96] and Mr Josef Venter [AM4381/96].

334 The operation was launched in response to information received about a planned infiltration via Botswana of a group of six heavily armed MK guerrillas. Final planning for the operation was conducted in conjunction with the Fifth Reconnaissance Regiment of the SADF's Special Forces.

335 The police provided a minibus with its rear window removed, and Constable Sehlwana was appointed to meet the group at the border under the pretext of being a taxi driver. He was instructed to stop the minibus at a designated spot, one side of which was fenced while the other was open. An army Casspir was parked in the road to prevent the occupants of the taxi from escaping; a group of policemen hid in the river bed, about thirty metres from the road; two or three other military personnel waited on the bank to the right of the road to communicate with the occupants of the minibus. A number of other groups were stationed in the vicinity to observe the scene. In addition, an operative hid at the fence to throw a tear gas canister into the vehicle in order to facilitate the arrests and to allow Constable Sehlwana to escape. An aircraft with radio communication monitored the scene, and a helicopter was on stand-by for any emergency.

336 According to the amnesty applicants, Inspector Kobus Fourie reported that the six suspects had crossed the border and had climbed into the designated minibus. Sehlwana stopped the vehicle at the appointed place; the tear gas canister was thrown in and Sehlwana escaped. At this point it is alleged that the occupants of the vehicle began firing and that this led to a shoot-out in which five of the insurgents were killed. The remaining guerrilla, alive though badly wounded, was taken away for interrogation. During interrogation, a military medic gave him an injection to stabilise his condition but he died later, on the way to Alldays.

337 Because of the sensitivity regarding Sehlwana and an informant from whom they had received intelligence, it was agreed that certain information would be omitted from then Colonel (later Senior-Superintendent) Erwee's statement. The inquest finding was that nobody could be held responsible for the deaths of the unnamed victims.

338 The Alldays incident was clearly a carefully planned and executed operation, involving both the police and the military. SADF standing instructions on conducting an ambush include advice on how to identify 'a killing ground': the enemy must be channelled into the killing ground; it must be large enough to accommodate the enemy and must facilitate flat trajectories, providing as little cover for the enemy as possible.

339 Several other incidents involving some of the above role-players occurred in the Alldays area during 1987 and 1988, leading to the deaths of some sixteen people.

340 On 11 September 1987, one person was shot and two escaped in an incident at Renaissance Farm in the Waterpoort District. The two who had escaped were shot by a named farmer on 12 September. The investigating officer was CJH Bressler. The victims were Mr Nicolaas Moio, Mr Stanley Mehlape, and Mr Frans Mgoasheng.

341 On 3 August 1998, five people were shot and buried on Bridge Water Farm, a state-owned farm in the Alldays area. The investigating officer was Warrant Officer Pretorius, an amnesty applicant in this and the Alldays incident.

342 On 23 September 1998, a further three people were killed by a farmer near Pondrift, Alldays. One person was arrested, and later became an *askari*. The victims were Mr Mzikayise Mgzangxeni, Mr Mkhatshe Johannes Shangaan and Mr Mark Mkoto; the investigating officer was Barend van der Merwe.

### ***Stephen Bogacu***

343 Mr Stephen Bogacu [KZN/TIS/006/BL] was killed by members of Unrest Unit 17 in the Ficksburg area on 24 May 1988. An inquest into his death [Inquest 8/88] found justifiable homicide, as the police claimed he was about to throw a grenade at them after they had observed him crossing a river. It appears that they had been lying in wait for him, as members of the Unrest Unit state that they had been given a photo and description of Bogacu.

344 The evidence of two other witnesses is conflicting. Mr Mmtali 'Fatty' Letlaka [KZN/TIS/006/BL] from Ficksburg stated that he had taken Bogacu into exile in 1985. In 1988, Letlaka was asked to fetch Bogacu from Leribe (Lesotho) so he could catch a taxi from Ficksburg to Zimbabwe. As they came though the border, a minibus stopped them and Letlaka was told to stand aside while Bogacu was shot several times at point-blank range. He fell to the ground and was shot again. Letlaka was then called to the minibus and searched. One of the policemen appeared to recognise him, and he was told to go home. A Detective Sefatsa from Ladybrand and two white policeman later arrived at Letlaka's house and took Bogacu's suitcase. Letlaka was forced to sign a blank piece of paper and was given R500 and thanked for giving them the suitcase. Subsequently, they visited him on several occasions.

345 Mr Jan Seboi Sekete [KZNNT/009/FB] said he and a Mr Litabe (now deceased) were returning from the Lesotho border and were joined by Steve Bogacu of the ANC and 'Fatty' Letlaka, who had come across the river. He said they were stopped by two uniformed white men near the Caledon Park location in Ficksberg, who shot one of the men. The rest were told to "fokoff". As Sekete and Litabe left, they saw Letlaka shaking hands with the policemen and realised that it had been a set-up. Neither Letlaka nor Sekete mention a grenade.

THE COMMISSION FINDS THAT BOGACU WAS KILLED BY MEMBERS OF THE SAP, THAT HIS DEATH WAS THE RESULT OF A DELIBERATE PLAN AND THAT IT WAS A GROSS VIOLATION OF HUMAN RIGHTS, FOR WHICH THE SAP IS HELD ACCOUNTABLE.

### ***SM Nyoka and others***

346 In 1988, two ambushes occurred within days of each other near Piet Retief. All the targets were killed without any arrests being made. Amnesty applications in respect of the first ambush were received from Colonel De Kock [AM0066/97], Mr Gerrie Johan Barnard [AM5004/97], Mr Jury Bernardus Hayes [AM5003/97], Mr Flip Koenraad Theron [AM5012/97], Sergeant Leon William John Flores [AM4361/96] Captain Marthinus David Ras jnr [AM5183/97], DG Willemse [AM372/96] JH Tait [AM3922/96], HC du Plessis [AM4129/96], Brigadier WF Schoon [AM4396/96] Major CP Deetleefs [AM5001/97], then Warrant Officer FHS 'Lappies' Labuschagne [AM5005/97], NJ 'Snor' Vermeulen, Warrant Officer FJ Pienaar [AM5014/97] and Dawid Brits.

347 According to amnesty applicants, a group of recently trained ANC guerrillas under a senior MK official, Mr Charles Ndaba, were set to infiltrate into Natal from Swaziland. According to De Kock, the group had been penetrated by a double agent run by Piet Retief Security Branch member Warrant Officer 'Freek' Pienaar. He had arranged that the first party of infiltrators be driven across the border on 12 June 1988 in a minibus driven by a member of C section, Lieutenant Mose. Mose stopped the vehicle at a pre-arranged spot and jumped out of the van while his four passengers, Mr Surendra Makhosi Nyoka, Ms Lindiwe Mthembu, Mr Lenny Naidoo and Ms June-Rose Cothoza were shot dead. Police officers Marthinus Grobler and James Stevens later fled South Africa fearing for their lives. They had overheard Security Branch operatives saying that the group who had been killed were unarmed and that it had been necessary to plant a Makarov in the minibus as part of the cover-up. The operation was kept out of the press in order to ensure that the second infiltration went ahead.

***Jabulani Sibisi, Joseph Boxer Mthembu, Sifiso Nxumalo and Nkosi Thenjekwayo***

348 Four days later, a second ambush took place during which Mr Jabulani Sibisi, Mr Joseph Boxer Mthembu, Mr Sifiso Nxumalo and Mr Nkosi Thenjekwayo were shot dead. Minister Vlok stated that the MK operatives had crossed the border in a minibus packed with Russian arms and ammunition and had died attempting to evade a roadblock. The parents of the deceased were refused access to their children's clothing as well as to the scene of the crime. There was no blood on the minibus used by the activists, although the bodies had been riddled with bullets. Those who applied for amnesty for this ambush were *inter alia* De Kock [AM0066/96], Mr Flip Koenraad Theron [AM5012/97], Warrant Officer Willem Albertus, 'Willie' Nortjé [AM3764/96], Mr Gerrie Johan Barnard [AM5004/97], Mr CJ Botha [AM5015/97], Major Christo Petro Deetlefs [AM5001/97], Mr JB Hayes [AM5003/97], Captain Marthinus David Ras jnr. [AM5183/97], Sergeant CS Rorich [AM5011/97], Captain PJ van Dyk [AM5013/97] and JEW van Zweel [AM5017/97].

***Unnamed activists***

349 At this time, De Kock also sent a team into Swaziland in an attempt to kill Mr Charles Ndaba. They failed in this objective but killed another person. In their amnesty applications, Paul van Dyk and Cornelius Johannes Botha said they were involved in an ambush inside Swaziland on 12 June 1988 in which one person was killed and one escaped. No names are cited but it is likely to have been this attempt on Ndaba. The ANC list of members killed in operations names Mr Israel Pharasi and Mr Sifiso Howard Nxumalo as fatalities in Swaziland at this time and the victim may have been one of these. Charles Ndaba was subsequently killed by the Security Branch while engaged in *Operation Vula*.

**THE NUMBER OF AMBUSHES THAT ENDED IN THE DEATH OF THE INSURGENTS LEADS THE COMMISSION TO CONCLUDE THAT, IN MANY INSTANCES, LITTLE ATTEMPT WAS MADE TO EFFECT THE ARREST OF THOSE CAUGHT IN SUCH AMBUSHES.**

**MK operatives killed in the process of an arrest or while pointing out arms**

350 The Commission was informed of a number of cases where alleged MK operatives were killed either in the course of an arrest or shortly thereafter.

### ***Unnamed guerrillas***

351 In about November 1984, an ANC guerrilla was arrested by C1 members in Mafikeng. The Zeerust Security Branch was called in to help and Colonel Roelof Venter [AM2274/96] was involved in the interrogation. During the interrogation, "violent methods were employed" and it was revealed that there were already two combatants in hiding in Vryburg and that the guerrilla had been on his way to join them. Venter, Crause, Du Preez Smith, and JJ Wehrmann went to Vryburg, along with members of the uniform branch. They managed to arrest one of the two, who was interrogated, tortured and forced to show them where the other one was hiding. When they arrived at the house, the guerrilla inside threw a hand grenade which failed to explode. He threw another one which exploded against the inside of the door. As the guerrilla ran out, a third grenade exploded between him and a police official. The guerrilla was killed and the police official suffered minor injuries.

### ***Blessing Mabaso, Luvuyo Percival 'Two Bob' Mgobhozi, Thembani (Thabane) Memela and Mbongeni Henry Zondi***

352 Mr Blessing Mabaso, Mr Luvuyo Percival 'Two Bob' Mgobhozi and Mr Thembani (Thabane) Memela [KZN/NN/002/DN] were shot dead in Quarry Road, Durban, on 7 September 1986, allegedly by Security Branch members Andy Taylor, and others. A Security Branch file lists a fourth person killed, namely Mr Mbongeni Henry Zondi. At the time the police claimed that the men had attacked a home in KwaMashu and that a number of weapons had been seized. A Durban inquest magistrate, Mr FM Vorster, found that the police were justified in killing the four men. Three people have applied for amnesty for this incident: JA 'Bertus' Steyn [AM4513/97], Sergeant LG Wasserman [AM4508/96] and MC Botha [AM7560/97].

353 In his trial, De Kock said he had been phoned one evening by General Bertus Steyn, head of the Port Natal Security Branch Division. Steyn had asked him to supply four AK-47s because the Durban Security Branch had shot four unarmed people and they needed AK-47s to make them look like combatants. A week or so later, Steyn contacted De Kock with a similar request. De Kock sent an arsenal of weapons for use in the future.

### **Norman 'Billy Holiday' Pietersen and Zola Michael 'Jabulani' Dubeni**

354 MK operative Norman 'Billy Holiday' Pietersen [CT00440/WIN] and Mr Zola Michael 'Jabulani' Dubeni [EC2653/97UTA] were shot dead in Cape Town following several armed attacks on members of the SAP. On 9 January 1987, Unrest Unit member GJ Labuschagne was killed and Warrant Officer Barnard seriously injured in a hand grenade attack on their vehicle. Constable WL Mthethwa was shot dead in a second incident three days later.

355 Members of the Unrest Unit arrested Pietersen in his bedroom in New Crossroads, Cape Town, on 14 March 1987. At the inquest, the police alleged that, while members of the Riot Unit were searching the contents of a bag of arms in his possession, Pietersen pulled away from the policeman holding him, tried to dive under the bed, grabbed an AK-47 and shot at the police. Two Riot Unit members attempted to pull Pietersen out from under the bed and a third member shot him dead.

356 Dubeni was arrested by Western Cape Security Branch members together with Vlakplaas operatives and *askaris* in Nyanga on 14 March 1987. Dubeni was believed by the police to have been responsible for armed actions in the Transkei in 1985, including a shoot-out with police in which one policeman was killed. The following day he was allegedly taken by Warrant Officer JH Nel, Sergeant WR Bellingan and Warrant Officer PJ Theron to a remote bushy area near Faure outside Cape Town to point out an arms cache.

357 Nel claimed at the inquest that Dubeni allegedly dropped the spade which he was digging and picked up a plastic packet from which he produced a grenade. Dubeni was in handcuffs and leg irons at the time. He was then shot in the stomach and face by Nel and Bellingan, and died at the scene. The packet was found to have contained four hand grenades. Lieutenant Desmond Segal was called to investigate the death.

358 MK sources told the Commission that there was no arms cache in Faure and that Dubeni had recently been disarmed by vigilantes in Khayelitsha. Notably, no officer or photographer were present at the 'pointing out', nor were photographs taken of the scene at any stage, allegedly because it was raining. This serious violation of police procedure suggests that there was no intention of bringing charges against Dubeni, since the pointing out of the arms cache would have been inadmissible in court without photographic evidence.

### ***Unnamed MK members***

359 In April 1987, *askari* Xola Frank 'Jimmy' Mbane's unit [AM8066/97] and Vusi 'Spyker' Myeza from Andy Taylor's unit went to Jozini where they shot one MK member in the legs; another sought refuge in a dam and shot security policeman Captain Frank McCarter. The injured man was left to die. After McCarter had been taken to hospital, the man in the dam attempted to give himself up to the police, but was shot in the head.

### ***Sandile 'Zintlhe' Mahlangu***

360 Security Branch file DR53/87 reveals that MK member, Sandile 'Zintlhe' Mahlangu was shot by Lieutenant SJG du Preez and Sergeant LG Wasserman in N Section, Umlazi on 30 June 1987 while running away. The victim had previously applied for political asylum in Lesotho.

### ***'Thanduxolo' and 'Nombini'***

361 Two ANC members – 'Thanduxolo' and another, said to be an armed woman and possibly his sister, 'Nombini' – were killed on 7 July 1987 in Motherwell, Port Elizabeth. They died after police used an armoured vehicle as a breaching device and flattened the house they were in. The police claimed to have seized a quantity of munitions including a grenade.<sup>14</sup>

### ***Bongani Edwin Cele***

362 ANC member Mr Bongani Edwin Cele [KZN/NG/031/DN] was shot dead by the police Murder and Robbery Unit in Mobeni Heights near Durban on 9 July 1987. The police claimed that Cele had tried to detonate a grenade while pointing out a site. The investigating officer, Hentie Botha, stated that Cele had been detained by the Security Branch for questioning about his involvement in attacks on a black councillor's home in Lamontville and the Lamontville police station. He further claimed that Cele had undergone military training in the ANC. On 30 June 1988, a Durban inquest court found that the police had been justified in killing the arrested ANC member.

<sup>14</sup> M Morris, Update: SA Bomb Summary, 1 May–31 August 1987.

### ***Ashley Kriel***

363 Mr Ashley Kriel [CT00307/HEL], a young activist from Bonteheuwel, Cape Town, left the country in late December 1985, joined the ANC and underwent military training in Angola. He infiltrated the country in April 1987. On 9 July 1987, Warrant Officer Jeffrey Benzien of the Terrorism Detection Unit and Sergeant AD Abels went to the Athlone house in which Kriel was staying. The two allege that they were only intending to reconnoitre the place. Kriel allegedly opened the door holding a pistol concealed beneath a towel. A scuffle broke out during which Benzien shot Kriel in the back with his own weapon. Warrant Officer Nel of the Security Branch allegedly found a grenade under a pillow on the bed.

364 The Commission established that the incident had been planned in the Athlone police station. Further, other members of the Security Branch were concealed in the nearby vicinity.

365 Forensic evidence also contradicts the police version of events. Blood was found in the bathroom and on the floor between the bathroom and kitchen door. Further, the bullet entrance wound indicated direct contact with the skin as opposed to passing through his clothing.

### ***Thozama Phoebe Mani***

366 Ms Thozama Phoebe Mani [EC0170/96PLZ] was detained and tortured in 1987. It is not clear whether she herself was a trained MK guerilla or was assisting an MK cell. She was in hiding in December 1987 when the shack in which she was staying in Veeplaas, Port Elizabeth was surrounded by security forces. She was shot and killed and the shack was crushed by armoured vehicles.

### ***Mxolisi Penwell 'Mubhi' Khumalo***

367 According to the records of the Centre for Adult Education, two armed policemen arrested Mr Mxolisi Penwell 'Mubhi' Khumalo in Sobantu on 30 July 1988 at about 19h30. According to this version, a hand grenade detonated, killing Khumalo and, according to rumour, the two policemen. Two gunshots were heard immediately after the hand grenade blast. A statement submitted to the Commission by the Khumalo family [KZN/NNN/427/DN] states that Khumalo went into exile in 1986 and returned briefly in July 1988. The family was told that he had died in a bomb blast on a mission at a soccer field in Magqonqo.

368 In a section 29 hearing, Sergeant Bonginkosi Simon Makhaye admitted to involvement, along with other named Security Branch members, in the death of Khumalo. They were acting on information provided by a Colonel Voster or Vosloo. Makhaye said that the three attempted to overpower Khumalo, but he reached into his pocket and detonated a grenade. Two of the police were slightly injured and Khumalo was shot dead.

369 The Commission subsequently located a pauper's grave in Pietermaritzburg where Khumalo had been buried under the name of Sithole. On further forensic examination of the remains, no trace of a grenade explosion was found. A bullet wound was found at the base of the skull (see Volume Three).

#### ***Mthetheli Gcina***

370 Mr Mthetheli Gcina was shot dead in Gugulethu, Cape Town, on 27 September 1988 by *askari* Lucky 'Agrippa' Madubula and Mr David Musimeke. They said that an informer pointed out Mthetheli to them while they were travelling in a minibus and wearing civilian clothes. Mthetheli allegedly produced a pistol and fired shots at them, after which they shot and fatally wounded him.

#### ***Patrick Welile 'Deks' Dakuse***

371 Mr Patrick Welile 'Deks' Dakuse, a well-known political activist, was shot dead by Murder and Robbery Unit members, Lieutenant Des Segal and Sergeant Etsebeth, on January 23rd 1989, allegedly while showing police the site of a buried weapon in the bushes next to Khayelitsha. Dakuse was allegedly a suspect in the killing of a councillor.

372 Segal stated that, after several days of questioning, Dakuse said he would point out where his weapon was buried. With his hands cuffed in front of him, Dakuse allegedly directed them to a bushy area on the outskirts of Khayelitsha and pointed out a site. He then dug a small hole with his hands and produced a plastic packet with an object in it, which he handed to Segal. While Segal was examining this, Sergeant Etsebeth allegedly saw Dakuse produce a grenade and fiddle with the detonator. Etsebeth fired two shots at Dakuse, killing him. A .38 Smith and Wesson revolver was found in the plastic packet. Explosive expert Warrant Officer Theron took possession of a grenade.

373 At the inquest, Wynberg magistrate G Hoffman found that Dakuse was killed by police acting in self-defence. No photographs were presented to the inquest hearing of the position of the hand grenade at the scene. A photograph of the explosive in a plastic bag in an office environment was presented instead.

***Anton Fransch***

374 Twenty-year-old Anton Fransch [CT03204/FLA] died after a six-hour gun battle with the police on 17 November 1989 at a house in Athlone, Cape Town. A Riot Squad sergeant was finally authorised to throw a grenade into his room, but security forces allege that, before it was thrown, there was a detonation in the room. Police penetrated the house and found the disfigured body of Anton Fransch with the rest of the ammunition. There has been persistent speculation as to whether the last grenade was self-detonated in a final act of suicide, or whether it was thrown by the security forces. The Commission was unable to determine this matter conclusively.

375 The Commission had difficulty in establishing the exact circumstances of each case, not least because the version presented to the media and the courts at the time was in almost all instances the police version. The Commission took into consideration a number of facts about these killings which seriously challenge the official versions. In the first place, several of the incidents happened while the suspect was already in custody, indicating that police did not make appropriate arrangements for the security of detainees. Detainees were routinely handcuffed when transported to courts and even hospitals; one would reasonably expect that extra care would have been taken where the possibility of access to weaponry existed.

376 Secondly, in at least one case, that of Mxolisi Khumalo, the version given to the court has been shown to be false. The fact that a bullet hole was found at the base of his skull would seem to indicate an execution-style killing. The fact that there was no indication of his body having been involved in an explosion further contradicts the police version.

377 Thirdly, the evidence of De Kock points to the fact that, in at least three cases, weapons were planted at the scene after death. It also needs to be noted that senior officers of the Security Branch were involved in the cover-ups. The Durban request for AK-47s came from the divisional commander of the Security Branch, who was later promoted to general. A statement by a Constable Bambatha

attached to the East London *askari* unit further verifies that the planting of weapons was a routine occurrence:

*My specific functions in the section ... were to drive askaris around all over the Republic of South Africa so that they could identify and point out terrorist members who had infiltrated the Republic, so that I could arrest them ... I was given an advocate's-type attache case which contained one Makarov pistol and a number of F1 hand grenades. My instructions from the then Captain ... was that, in the circumstances leading to the death of a terrorist in the process of trying to arrest him, I was to send the askaris away and be first at the scene so that I could place the Makarov pistol and F1 hand grenades on the deceased with no person to observe me. The reason ... to do this was to cover the police in the event of a court case ... As it is, in the process of pointing out a terrorist, it was the preference of the askaris that the person be killed as they feared that should ... he speak to other terrorist [sic] about their involvement, they themselves would be killed. This view was also supported by the then Captain ... to prevent the terrorist being released later.*

378 Several of the deaths occurred shortly after or in connection with MK attacks on police or so-called 'collaborators', creating an impression that the deaths of MK operatives were possibly revenge killings.

379 The use of the Casspir or armoured vehicle as a breaching device, a common *Koevoet* practice, indicates scant regard for the principle of minimum force. Its lethal nature makes the possibility of an arrest improbable and the death of the occupants – including civilians – intentional.

## **Entrapment Killing**

380 Evidence before the Commission demonstrated that *askaris* were sent to infiltrate open structures of the mass movements, posing as MK operatives, and to identify potential recruits for military training. Such recruits were then killed, sometimes after being trained and armed. This led, in some instances, to Security Branch 'credibility operations' in which targets were attacked in order to enhance the cover of *askaris* posing as MK combatants (see below).

### ***M Madikela, N Matabane and F Nhlapo***

381 An incident in Krugersdorp led to the deaths of three COSAS activists, Mr M Madikela, Mr N Matabane and Mr F Nhlapo [JB01909/03WR] on 15 February

1982. The operation was conducted jointly by the Soweto Security Branch and Vlakplaas. Brigadier W Schoon [AM4396/96], Captain JC Coetzee [AM4120/96], Sergeant TE Mfalapitsa [AM3592/96], Sergeant CS Rorich [AM5011/97] and Colonel Abraham Grobbelaar [AM4143/96] applied for amnesty.

382 According to Jan Coetzee, a group of *askaris*, including Sergeant Joe Mamasela and Ephraim Mfalapitsa, were working in the Soweto area in co-operation with the Soweto Security Branch. Mfalapitsa had been a member of the ANC based in Lusaka, Zambia, from 1976 to 1981. He told the Commission that he had been involved in the torture of ANC cadres suspected of being spies. He defected to the Security Branch towards the end of 1981 and became an *askari*.

***COSAS students Hoseo Lengosane, Joseph Mazibuko, John Mlangeni, Samuel Lekatsa, Humphrey Tshabalala, Johannes Mazibuko and Mr Cedric Dladla***

383 Mfalapitsa made contact with a group of COSAS students, who allegedly wanted weapons training in order to kill a prominent Security Branch member in Kagiso. Following discussion with Brigadier Schoon, it was decided an arrest would expose Mfalapitsa. According to Coetzee, Schoon then obtained authorisation for the killing of the students.

384 Rorich, an explosives expert based at the Ermelo Security Branch, said he was approached by Coetzee for assistance and was responsible for making a bomb with an electrical detonator and placing it in the pump house of a mine bunker.

385 At a section 29 investigative hearing, Sergeant Joe Mamasela related how Mfalapitsa –  
*picked up four youngsters and ... he told them that ... I am a taxi man that he hired. And then I drove them until Mfalapitsa ... said stop here ... Then he climbed off with the youngsters and they moved in the bush in the darkness ... I knew there was already a mine bunker that was prepared for these youths – there was explosive stuff in cement bags and whatever ... So when the youngsters were there, Mfalapitsa .. must leave them and say he is going to fetch the other material. And whilst out the door was made to lock ... and then he must run away so that these people can operate ... a remote control sort of thing to blow these little schoolboys to smithereens...*

386 The bomb was detonated by Rorich, killing the three COSAS students and injuring Mr Zandisile John Musi [JB01909/03/WR].

387 A similar operation, known as *Operation Zero Zero* reflected the same basic *modus operandi* as the Krugersdorp incident, but with a significantly new development: the victims died at their own hands. Those who applied for amnesty for the operation were General Johan van der Merwe [AM4157/96], Brigadier Willem Schoon [AM4396/96], Brigadier Jack Cronjé [AM2773/96], Sergeant Daniel Nkala [AM2460/96], Captain Roelof Venter [AM4382/96], Brigadier JL M (Marthinus) Delport [AM4127/96], Mr Francois Steenkamp [AM4383/96], Colonel JF (Kobus) Kok [AM3811/96], Mr JF (Japie) Kok [AM3812/96], Mr LC Prince [AM4382/96], Mr Andre Roos [AM4392/96] and Brigadier WAL du Toit [AM5184/97].

388 In sketching the context for this operation, then head of the Security Branch General Johan van der Merwe said the police were experiencing greater and greater difficulties policing the areas of the East Rand and Vaal Triangle. In particular, there was increasing anxiety about their seeming inability to protect black policemen and community councillors, a core component of their reform strategy but at the same time an increasingly vulnerable underbelly. He told the Commission:

*[W]e knew if we could not succeed in protecting our Black members ... the whole system would collapse and that we in no way would be able to defend ourselves against the onslaught ...*

389 Van der Merwe said the Security Branch had received reports that a group of activists were planning to launch armed attacks on black policemen living in the East Rand townships. Sergeant Joe Mamasela claims that he was tasked with infiltrating the group of 'troublemakers'. He did this successfully and succeeded in removing a person he regarded as pivotal to the group to a more neutral environment. According to Mamasela, the killing of a white nurse provided the trigger for the operation. He says the anger of the security police was such that they insisted "die mense moet vrek" (the people must die).

390 Explaining why an arrest was not possible, Van der Merwe said:

*It became very obvious that any attempts to arrest the activists concerned and bring them before court would be futile to say the least, primarily due to the high intimidation factor which precluded any witnesses from coming forward. It also became equally obvious that the life of the informer concerned would be in grave danger.*

391 Van der Merwe sought approval from his superiors to organise the killing of the activists. Direct consent up to the level of the Minister of Law and Order, Louis

le Grange was granted. Police commissioner General PJ Coetze was allegedly involved in the planning stage of the operation and Van der Merwe reported to him in full at the end of the operation. Van der Merwe assigned the then commander of C1 (Vlakplaas), Brigadier Jack Cronjé to the operation. While Van der Merwe himself implicates no one higher than Minister le Grange, Cronjé claims in his amnesty application that Van der Merwe "specifically indicated to me that this came directly from Minister le Grange and that it had indeed been authorised by President PW Botha, as well as Commissioner Johan Coetze".

392 Cronjé recalled De Kock from Durban and they made plans to provide the COSAS activists with modified grenades with a zero-timed delay mechanism so that, in the words of Van der Merwe, "any person throwing such a hand grenade at the home of a policeman *[sic]* would be affected first due to the shortened time-delay". According to Brigadier Willem Schoon, he discussed the technical details with Major General 'Joep' Joubert [AM3799/96] of the SADF Special Forces. However, Brigadier WAL du Toit [AM5184/97], an expert from the technical section of the Security Branch, appears to have physically altered the timing devices.

393 Van der Merwe states that he was personally in charge of the operation. Just before the incident took place, he travelled to Springs where he held a briefing meeting in the offices of the divisional commander, then Colonel Delport. According to Delport, Van der Merwe stated at this meeting that the C1 Unit (Vlakplaas) would come down to carry out the mission.

394 Both Van der Merwe and Cronjé claim that the *askaris* were given strict instructions to supply the weapons only and not to become involved in choosing targets. In practice, the nature of the *askaris'* interaction with the activists went beyond mere supply. Mamasela and another *askari* arranged a training session with the recruits, using two grenades that had been supplied by De Kock. Mamasela also said that he and other *askaris* working with him had been armed with handguns and a grenade when they had infiltrated the group, to increase their credibility. Mamasela chose 26 June, "Freedom Day", for the operation, saying to the students, "we are going to celebrate the ... freedom ... day of 26 June ... it will be ideal if you celebrate unity in action, and by that we mean we will ... provide you with training and we ... will arm you so that you can make an armed propaganda".

395 On the night of 26 June 1985, the modified grenades and a limpet mine were handed to Mamasela. Mamasela says that there was some concern that one particular student, Congress, be eliminated because of his ability to identify

Mamasela. Consequently a modified landmine and not a grenade was given to him and he was escorted by Mamasela and Constable Nkala to the electricity sub-station which was to be his target.

396 Eight people were killed and seven seriously injured in the ensuing hand grenade and limpet mine blasts. The victims were Mr Hoseo Lengosane, Mr Joseph Mazibuko, Mr John Mlangeni, Mr Samuel Lekatsa, Mr Humphrey Tshabalala, Mr Johannes Mazibuko and Mr Cedric Dladla. A police spokesperson at the time said that the victims were killed while attacking the homes of SAP members and an electricity substation. The hand grenades were identified as being of Russian origin and of the type used only in ANC terror attacks.

397 The officer in charge of the investigation, Francois Steenkamp, was aware that it was a Vlakplaas operation. He stated in his amnesty application that he was called in on 25 June 1985 by his superior, Brigadier Delport, who told him that he had to be on standby that night as police were expecting a number of explosions to take place. Later that night he learnt that members of the C1 unit, including De Kock, were in fact planning to distribute booby-trapped hand grenades to activists under the pretext that they were from the ANC.

398 Mamasela observes that when he reported back to his Commander, "he was ecstatic about it, he was extremely happy, he jumped like a beheaded chicken". Mamasela was promoted and the other two *askaris* involved received 'kopgeld' (bounty money) of R2 000. Ms Maki Skosana, whom some of the survivors identified as having been seen with Mamasela, was necklaced a few days after the accident.

### ***The Gugulethu Seven***

399 On 3 March 1986, shortly after 07h00, seven men aged between sixteen and twenty three were shot dead in Gugulethu. They were Mr Mandla Simon Mxinwa, Mr Zanisile Zenith Mjobo [CT00116/FLA], Mr Zola Alfred Swelani [CT00700/FLA], Mr Godfrey Jabulani Miya [CT00818/FLA], Mr Christopher Piet, Mr Themba Mlifi [CT00100/FLA] and Mr Zabonke John Konile [CT00108/FLA]. All sustained numerous gunshot wounds to their bodies; all were shot in the head; one had half his face blown away. Police officers involved on the scene or in the investigation thereafter were Warrant Officers Barnard and McMaster, Majors Johan Kleyn, Dolf Odendal and Stephanus Brits, Captains Charles Brazzelle and Leonard Knipe, Sergeants John Sterrenberg, Grobbelaar and Rian Bellingan, and Constable

Mbelo. Those who applied for amnesty for the killing of the Gugulethu Seven were Sergeant Wilhelm Riaan ‘Balletjies’ Bellingan [AM5283/97], Mr Xola Frank Mbane [AM8066/97] and Constable Thapelo Johannes Mbalo [AM3785/96].

- 400 The ‘Gugulethu Seven’ incident was the subject of an inquest in 1986, a trial in 1987 and a reopened inquest in 1989. The outcome of both inquests, despite opposing eyewitness accounts and conflicting forensic evidence, was a finding by Wynberg magistrate Hoffmann that the youths had died in a legitimate anti-terrorist operation.
- 401 Following a lengthy investigation by the Commission’s Investigation Unit, the following account emerged. During 1985, there was a dramatic escalation in armed attacks by MK operatives, including a hand grenade attack on security forces in August resulting in casualties. This incident led Major General Griebenouw of the Western Cape security police to request the assistance of Vlakplaas. Vlakplaas commander Eugene de Kock deployed certain Vlakplaas personnel including Joe Coetzer, Riaan Bellingan and several *askaris*, including Gladstone Moss, Eric ‘Shakes’ Maluleke and Xola Frank ‘Jimmy’ Mbane. After a final briefing from De Kock at Vlakplaas, Bellingan took charge of the mission. They drove to Cape Town in early January 1986.
- 402 Based at Koeberg, they were briefed by members of the security police. They were shown photographs of some activists in Gugulethu who were alleged to be dangerous ‘terrorists’. After an unsuccessful attempt to infiltrate Mbalo into a group in Gugulethu, Jimmy Mbalo and Eric Maluleke were sent in. They were given weapons and grenades and arrived at the home of squatter leader ‘Yamile’, claiming to be commanders from exile. As proof, they opened a concealed panel in the minibus, showing their guns. Yamile believed the *askaris* and, after introducing them to Christopher ‘Rasta’ Piet, they soon had the core of the group which became known as the ‘Gugulethu Seven’.
- 403 Mbalo claims to have informed both Bellingan and Liebenberg that these were merely youths rather than hardened ‘terrorists’ and that only one of them – Rasta Piet – was trained. Liebenberg allegedly informed Mbalo that he should see to their training. Over a period of two months, the youths received basic training in military combat work from Mbalo and political education from Eric Maluleke.
- 404 The plan was to launch an attack on a police bus which ferried senior police to Gugulethu police station every morning. This plan was reported to both Liebenberg

and Bellingan by Jimmy Mbane. After a meeting of senior officers the night before the incident, and a briefing at Wingfield Naval Base, more than twenty-five heavily armed police were deployed to saturate the area.

405 Just after 07h25 on 3 March 1986, Jimmy Mbane, driving a stolen bakery van, began dropping off the ‘comrades’. The police operation commenced with a loud noise and then the firing began. It is alleged that, of the seven, the only person who had time to fire back was Rasta Piet. The two *askaris* who led them into the ambush were able to escape and were paid R7 000 each – R1 000 for every victim. Mbelo was paid R1 000.

### ***The Chesterville Four***

406 According to his amnesty application, Warrant Officer WA ‘Willie’ Nortjé [AM3764/96] was one of a team of Vlakplaas members sent to Durban. The team was informed by the Durban security police that an ANC self-defence unit, allegedly including Charles Ndaba, was responsible for the unrest. Evidence in possession of the Commission suggests that this was Thabane Memela and not Ndaba as Nortjé indicates.

407 In June 1986 a group of seven – Warrant Officer ‘Willie’ Nortjé, Sergeant Izak Daniel ‘Steve’ Bosch [AM3765/96] and other Security Branch members and *askaris* – set out, allegedly to arrest Memela. While the white Vlakplaas operatives waited at a nearby graveyard, the *askaris* went to locate Memela. Some time later one of the *askaris* reported that he had found a group of ‘comrades’ willing to take him to Memela, but they seemed somewhat suspicious. In order to boost the *askari*’s credibility, Nortjé gave him an AK-47. About half an hour later, Nortjé heard shooting.

408 At the time the *askari* claimed that the youths had opened fire. He later confessed to Nortjé that one of the police team had produced his gun too soon because he was nervous, and that the other members had then begun shooting as well.

409 Amnesty applicant Constable Butana Almond Nofemela [AM 0064/96] gives a different version. According to Nofemela, De Kock was in charge of the operation and ordered Nofemela not to participate. Others made contact with a group of Chesterville UDF members and arranged a meeting. De Kock accompanied them to the meeting place and issued certain new recruits with AK-47s. The operatives were ordered to meet the UDF members and kill them. De Kock and

Nofemela waited at the vehicle while the other members shot them. The men then returned and reported a successful operation.

410 Those killed were Mr Russel Mngomezulu [KZN/GM/007/DN], Mr Muntuwenkosi Dlamini, Mr Russel Mthembu [KZN/GM/007/DN] and Mr Sandile Khawula.

### ***The KwaNdebele Nine***

411 A group of nine young activists who had fled from Mamelodi to Kwandele was infiltrated by the SAP. The activists were told to meet at a house in Vlaklaagte, KwaNdebele, on 15 July 1986, from where they would be taken for military training. The police surrounded the house, killed all the activists and set the house alight. Those killed include Mr Jeremiah Maqaqua, Mr Jimmy Mabena, Mr Samuel Ledwaba, Mr Zakias Skosana, Mr Obed Mokhonwana, Mr Mabuso Malobala, Mr Abram Makulane, Mr Ngemane Benjamin Mafidi and Mr Jeffrey Hlope.

### ***The Nietverdiend Ten***

412 In the 'Nietverdiend Ten' incident, a group of ten youths between the ages of fourteen and nineteen were recruited for military training by Sergeant Joe Mamasela and then killed on 26 June 1986. This operation was a joint Northern Transvaal and Special Forces operation. Brigadier J Cronjé [AM2773/96], Captain Jacques Hechter [AM2776/96], Colonel WJ Loots [AM4149/96], Colonel PR Crause [AM4125/96], Major General AJM Joubert [AM3799/96] and Commandant Charl Naudé [AM5453/97] applied for amnesty for the incident.

413 The Northern Transvaal had been designated as one of the 'hotspots' in Major General Joubert's plan (see above). Charl Naudé was assigned to co-ordinate support for the Northern Transvaal Security Branch and worked in a covert Special Forces unit from 1984. Cronjé approached Naudé and discussed a plan to eliminate the group of activists. Naudé reported to his superior officer, Major General 'Joep' Joubert, who authorised the plan. The plan involved killing the activists *en route* to Botswana, where they were supposedly destined to receive training, and required the co-operation of the Western Transvaal Security Branch, under the command of Colonel Wickus Loots. Captain Crause from the Zeerust Security Branch drove around with Cronjé and Naudé in order to identify a suitable spot.

414 On the night of the 26 June 1986, the anniversary of *Operation Zero Zero*, Sergeant Joe Mamasela collected the group in a minibus and drove towards Botswana.

He stopped at a Zeerust filling station as arranged and picked up another man who was to act as their escort. At this stage, Cronjé, Hechter, Loots, Crause and Naudé began to follow them. The escort later told him to turn left off the road and after approximately thirty to forty metres they entered a dense, bushy area. As he drew to a halt, soldiers wearing camouflage uniform and balaclavas surrounded the vehicle. The youths were instructed to climb out and lie face down. Their trousers were removed and Naudé injected with them with a sedative or other chemical substance. The victims were then returned to the vehicle and driven to a pre-selected spot in Bophuthatswana. The minibus with the activists still inside was left to roll down a steep hill, crashed into a wall and was blown up. Four AK-47s were placed in the destroyed vehicle and a number of AZAPO pamphlets were strewn around the area. It is not clear at what stage the victims died, nor whether their death was caused by the chemical substances, the impact or the explosion.

415 The bodies were charred and could not be identified. The elimination of nine more activists from Mamelodi – the Kwandebel Nine – dealt with above, created further confusion as to the identity of the victims. According to information received from the families, those who are assumed to have been killed in this operation were Mr Abraham Makolane [JB02700/02PS], Mr Samuel Masilela, Mr Sipho Philip Sibanyoni [JB01032/02PS], Mr Thomas Phiri [JB02663/02PS], Mr Jeremiah Magagula [JB02701/02PS], Mr Morris Nkabinde [JB01015/02PS], Mr Matthews Promapana Lerutla [JB00787/02PS], Mr Stephen Makena [JB01005/02PS] and Mr Elliot Sathege. Mamasela also names '*Rooibaard*' Geldenhuys and Umzoki Sibanja as victims.

416 Cronjé says he was congratulated by a named general after the operation. Mamasela was given R1 000 'kopgeld' (bounty money) and two weeks' holiday.

### ***Jeffrey Sibiya***

417 In 1987 ANC activist Jeffrey Sibiya [JB03063/01ERKAT] was allegedly involved in petrol bomb attacks, arson and intimidation against the SAP and opponents of the ANC in Mamelodi. Paul van Vuuren [AM6528/97] tried unsuccessfully to persuade Sibiya to become an informer. Information was received that Sibiya was planning an attack on Van Vuuren and Hechter, and a decision was taken to kill him.

418 Mamasela went to Mamelodi to fetch Sibya and another person, Mpho, under the pretence that he was to take them across the border. Captain Jacques Hechter [AM2776/96], Sarel du Plessis Crafford [AM5468/97] and Paul van Vuuren, among others, waited in a minibus outside Mamelodi. They were taken to a place five kilometres north of Pienaar's River. There the activists were interrogated, kicked, beaten and were strangulated with wire. Both were killed during interrogation. In order to conceal the evidence, the bodies were destroyed using a landmine somewhere in Bophuthatswana. Amnesty applicants include: 'Sakkie' Crafford, Brigadier JH Cronjé, Captain J Hechter and Captain PJ Janse van Vuuren.

### ***The Mofolo Three***

419 Lieutenant Colonel Anton Pretorius [AM4389/96], *askaris* Moleke Peter 'Frank' Lengene [AM4033/96], Manuel Olifant [AM4032/96], Mr Sarel Petrus Nienaber [AM4391/96] and Captain Daniel Johan Steenberg [AM4374/96] applied for amnesty in connection with the killing of three activists on 2 July 1989.

420 In his amnesty application, Pretorius refers to the escalation of MK activities from the beginning of 1988. He alleges that the Soweto Intelligence Unit (SIU), which he commanded, identified a number of MK units which were planning to attack SAP targets. The units operated from within organisations such as the Soweto Youth Congress (SOYCO) and the South African Youth Congress (SAYCO). It was decided to infiltrate such structures via 'credibility operations' – involving the sabotage of buildings to enhance the credibility of the agents and/or *askaris*. Five such operations were conducted in a matter of months and began to have the desired results.

421 In one of these operations, the Security Branch made contact with one Nceba who allegedly had a unit in Mofolo, and infiltrated Peter Lengene into the unit. Lengene was a former SAYCO member who had been abducted from Botswana and, after being tortured, became an *askari*. The infiltration was successful and Lengene introduced Constable Linda Moni, a Vlakplaas member seconded to the SIU, as his commander. Lengene and Moni arranged a meeting at a Hillbrow hotel where they showed Nceba an AK-47, a grenade and an SPM landmine. It was agreed that Lengene would train members of Nceba's unit in the use of mines. A further seconded Vlakplaas member assisted with this training.

422 The Nceba unit then began to plan a terror attack. Following a discussion with the Divisional Commander, an operation similar to *Operation Zero Zero* was

decided on. Pretorius proposed that they lay mines on signal boxes on railway lines and he informed the Divisional Commander that he had three zero-timed VDM-IM switches available. Members of the Security Branch technical division saw to the alteration to the time delay mechanisms.

423 The plan was that Lengene, Moni and another Vlakplaas member would say they had received an order from outside instructing them to conduct an operation. The chosen targets were the railway line at Mofolo, Midway and Kliptown. Each of the activists was accompanied by one of the *askaris* armed with AK-47s, allegedly for credibility and to protect themselves from Nceba and his unit. The situation was monitored by the security police from a distance. However, during the operation, only one of the limpet mines detonated. According to Pretorius, when he arrived at the scene he discovered that the detonated mine had killed Nceba and that Lengene and Moni had shot the other two after their limpets failed to detonate. One of the *askaris* gives a different version, saying that he feared that Pretorius would kill him if he failed to shoot the activist.

424 Pretorius took the bodies of the two who had been shot and dumped them next to a river near Rustenburg, placed a tyre on them and burnt them so that they could not be identified. On his return, Pretorius claims that he reported to the Divisional Commander only that he had dealt with the matter. He said further that, while they knew the identities of those killed, they did not reveal this to police investigators for fear of exposing the Security Branch's involvement.

### **Killing of own forces**

425 Killings were also recorded inside the state or the security forces themselves; the victims were those whose loyalties were questioned or who represented a 'weak link' in the chain. A large number of the victims were *askaris*.

### ***Robert and Jean-Cora Smit***

426 Mr Robert Smit, a former government representative at the IMF in Washington and National Party parliamentary candidate, and his wife Jean-Cora Smit, were shot and stabbed to death in what has been described as "an extremely professional hit" on 22 November 1977. The letters 'RAU TEM' were painted in red at the scene of the murder. Despite apparent intensive investigations the killings have remained unsolved for over twenty years.

427 During this period there have been persistent allegations that the killings were carried out by the South African security forces. A number of possible motives have been put forward: that Dr Smit had uncovered massive corruption and fraud involving extremely high-level government sources; that he was in possession of information relating to South Africa's nuclear programme; or that the reason for the killings related to South Africa's sanctions-busting activities, in which Dr Smit had been involved. Several people confirmed at the time that Dr Smit was in possession of information he had described as "explosive".

428 Particular suspicion was directed at former members of BOSS's alleged Z-squad and the SAP's Special Task Team. Three names, Dries 'Krullebol' Verwey, Jack Widdowson and Roy Allen have repeatedly been associated with the killings. Verwey subsequently died in uncertain circumstances; both Widdowson and Allen, identified by two independent sources as having been in the area at the time of the killings, were named in the 1992 Steyn report as being connected to 'third force' activities. In addition, it is known that Dr Smit was due to meet with a Mr McDougal on the evening of his death. McDougal was the codename of a former Z squad operative, Phil Freeman, who has been named as a possible suspect in the Rick Turner killing.

429 Further allegations were that the investigation into the killings, conducted by members of the East Rand Murder and Robbery Squad, sought to cover up security force involvement. The investigation was conducted by the same SAP officer later responsible for the cover-up around RENAMO secretary general Orlando Christina's killing. This officer was part of a joint SAP-SADF committee set up to assess the implication of Christina's death and which recommended the killing of a number of people associated with Christina's killing in order to conceal the then covert link between the SADF and RENAMO. Thus, while no evidence exists regarding this officer's role in the Smit killings, his role in activities amounting both to cover-up and further unlawful actions has been established.

430 The Commission received no amnesty applications in respect of the Smits' killings. Recent attempts by their daughter Liza to investigate her parents' death, and her subsequent submission to the Commission, have been associated with death threats and possible attempts on her life. This tends to suggest a contemporary interest in ensuring that the facts surrounding the killings remain hidden, and points to a political agenda or at least one in which powerful – possibly financial – interests are vested.

431 While the Commission did not make significant headway in respect of these killings, it should be noted that the Attorney-General's investigation confirms a politically motivated killing involving the security forces.

THE COMMISSION FINDS THAT ROBERT AND JEAN-CORA SMIT WERE KILLED BY MEMBERS OF THE SECURITY FORCES AND THAT THEIR DEATHS CONSTITUTE A GROSS VIOLATION OF HUMAN RIGHTS.

**'Skorpion'**

432 According to amnesty applications received by the Commission, Brigadier Schalk Visser [AM5000/97], Mr GS 'Gert' Schoon [AM5006/97], Captain JM 'Sakkie' van Zyl [AM5637/97], Warrant Officer Don Gold [AM3686/96] and Warrant Officer Disre 'Des' Carr [AM5008/97] were involved in an operation in April 1980 to eliminate an alleged Security Branch source who was suspected of being a double agent.

433 'Skorpion' or 'Scorpio' (aka Robin, Rupert, Reuben or Robert) was handled by Martin van Rooyen of the Soweto Security Branch and was suspected of having given information to the ANC which resulted in the death of at least one SAP informant in Swaziland. Brigadier Schalk Visser, then officer in command of the Soweto Security Branch, says that he discussed the issue with Brigadier Piet J Goosen, then head of the A section at Security Branch headquarters, and was instructed to make arrangements for Skorpion to be killed.

434 Visser contacted an ex-Koevoet colleague, Captain 'Sakkie' van Zyl, then Security Branch commander of Ladysmith, for assistance. Captain Van Zyl decided to use explosives as he had been told that no trace of Skorpion should be left. He contacted the explosives inspector, Warrant Officer Don Gold of the Pietermaritzburg Security Branch, and told him to bring explosives and detonators and meet him in Pongola. Visser and Captain Van Zyl loaded Skorpion, apparently heavily sedated, into a vehicle, met Gold in Pongola and then met up with Gert Schoon and Warrant Officer Des Carr in Jozini.

435 Des Carr shot at Skorpion with a Walther hand-machine carbine at an isolated farmhouse while he slept under a tree. Skorpion jumped up and stormed van Zyl, who fired a shot at him, hitting him in the head. He died instantly. His body was wrapped in a tarpaulin and Van Zyl, Gold and Carr drove to the edge of Jozini Dam where Schoon and Visser were waiting with a boat. The body was blown up on an island by Gold. After the first explosion, the remains were collected together and again detonated to ensure complete destruction.

### **Peter Dlamini**

436 According to Ms Gertrude Dlamini [KZN/NM/100/NQ], her son, Peter Nkosinathi Dlamini from Nqutu, went into exile in 1978. Before he left he had been regularly harassed by Security Branch members as a result of his involvement in political activities at the University of Zululand. After he left, the Security Branch visited his mother's home and asked for him. She was later informed that her son had been kidnapped and brought back to South Africa, where he was forced to become an *askari*, and was later killed.

437 Dirk Coetze stated that Brigadier Willem Schoon, fearing that Dlamini would return to the ANC, decided he should be killed. In 1981, Dlamini and ANC operative Vuyani Mavuso were taken by Dirk Coetze and Major Koos Vermeulen to a spot near Komatipoort. Mavuso had been captured in the Matola raid, and after unsuccessful attempts to 'turn' him, it was decided that he too should be killed. The two were given 'knock-out' drops obtained from General Lothar Neethling. These and subsequent drops did not have the desired effect. Eventually the two were shot by Koos Vermeulen and their bodies burnt, while the operatives had a braai.

### **Isaac Moema**

438 Another *askari*, Isaac Moema, aka 'Ace Ramela', was similarly killed near Komatipoort in 1981. Moema went into exile in 1978 and trained in Angola. He is said to have taken part in the Zimbabwean war in 1979 and 1980. He was captured by the South African forces along with Mr Jackson Mnisi while infiltrating South Africa sometime in 1981. Moema is said to have become an *askari*, but was killed after Vlakplaas operatives began to question his loyalty. Dirk Coetze [AM0063/96] applied for amnesty and named other operatives as well as superior officers in this operation.

### **'Bron 406'**

439 At some time in 1987 or 1988, Captain (later Major) 'Sakkie' Crafford [AM5468/97] asked DJ Kruger [AM5233/97] and other named officers to assist in carrying an unconscious man from the office to a minibus. Crafford informed them that the person, 'Bron 406' was leading a double life and he had decided to kill him, as his double role was dangerous to the country and the SAP. They stopped in Mamelodi East and placed 'Bron 406' on a landmine. Crafford detonated the mine.

### ***Sergeant Mothasi***

440 Sergeant Mothasi was based at the Police College at Hammanskraal. He had laid a charge against a Colonel van Zyl who had assaulted him, leaving him with a burst eardrum. Unsuccessful efforts were made to put pressure on him to withdraw charges.

441 On 30 November 1987, Hechter, Mamasela and Van Vuuren went to the Mothasi house. After ascertaining that Mothasi was not at home, Mamasela reported back to Hechter and Van Vuuren, who instructed him to return and to take Ms Irene Busi Mothasi into one of the back rooms. Hechter and Van Vuuren then entered the house and sat in darkness until Mothasi returned, when they tackled him. Van Vuuren put a pillow over his head to act as a silencer and then shot him. Mamasela claims that he was also instructed to kill Ms Mothasi and a child, as they would be able to identify him. He killed Ms Mothasi, but left the child. This is disputed by Hechter and Van Vuuren who claim that they were unaware of the child and that Mamasela killed Ms Mothasi of his own accord. Neighbours subsequently reported hearing the child crying through the night.

442 Colonel PJC Loots [AM5462/97] Bridadier JH Cronjé, Captain Jacques Hechter [AM2776/96 and Paul van Vuuren [AM6528/97] have applied for amnesty for the killing, but claim that they were told that Mothasi was passing information on to the ANC.

### ***Phumelo Moses Nthelang***

443 In June 1989, Eugene de Kock returned from an operation near the Oshoek border post that had failed to materialise. According to him, by the time he and his colleagues arrived at Vlakplaas they had drunk a significant amount of alcohol and they continued drinking in the Vlakplaas bar. While there, *askari* Phumelo Moses Nthelang reported to De Kock that he had lost his weapon. De Kock first struck Nthelang with a snooker cue and, when that broke, with his open hand. A number of other Vlakplaas operatives joined in the assault. Nthelang was ‘tubed’ (a common form of torture in which a tube is held tightly over the victim’s mouth, preventing him or her from breathing), beaten and kicked to death. His body was taken to a farm near Zeerust and buried.

***Glen Mgoduwa, Amos Faku, Desmond Mapipa and Charles Jack***

444 Three black security police and an informer died when a bomb placed in their vehicle was detonated by radio control outside Port Elizabeth on 14 December 1989. They were Mr Glen Mgoduwa [EC2631/97PLZ], Mr Amos Faku, Mr Daliwonga Desmond Mapipa and an informer, Xolile Shepherd Sakati (aka Charles Jack). It was initially thought that MK, who claimed credit for the operation, were responsible. However, investigations led to a trial of five Security Branch members, at which De Kock testified that he had been told that the killings had been necessary to cover up the assassinations of the Cradock Four. The accused denied this and held that they had killed their colleagues because of a case of fraud involving the Council of Churches. A third version emerged at the amnesty hearing. It was alleged that the four had begun to make overtures to the ANC. Attempts to establish from the ANC whether there was any substance to this were unsuccessful.

445 Those convicted were Lieutenant-Colonel Gideon Nieuwoudt [AM3920/96] of the Port Elizabeth Security Branch, Brigadier WAL du Toit [AM5184/97] of the Security Branch's technical division and Major Marthinus Ras, a Vlakplaas operative. Gerhardus Lotz [AM3921/96] and Jacobus Kok [AM3811/96] were acquitted. Others named as being involved in the operation were Nick Janse van Rensburg [AM3919/96] officer commanding the Security Branch, who planned the killing with Nieuwoudt and De Kock in Pretoria; Brigadier J Gilbert, head of the Security Branch in Port Elizabeth at the time of the killings, and state witnesses Daniel Lionel Snyman, Warrant Officer 'Snor' Vermeulen and Eugene de Kock.

446 In reviewing the evidence before the Commission, and based on the cases detailed above, it appears that the following divisions and units were involved in extra-judicial killings: Vlakplaas, Port Natal, Northern Transvaal, Eastern Cape, Witwatersrand (Soweto), Eastern Transvaal, Western Cape and Orange Free State Security Branches, SADF Special Forces and possibly BOSS. In relation to internal eliminations, in almost every case the Vlakplaas unit operated under the relevant divisional or local Security Branch.

447 While many of the eliminations occurred in border areas that provided access routes for combatants to re-enter South Africa, and thus many of those targeted could be classified as combatants, indications are that a number of those so killed were not in a combat situation at the time. A number of security force personnel acknowledged that the distinction between combatant and non-combatant became blurred. They justified this in terms of the ANC's strategic direction towards a

'people's war', and the enormous pressure placed by politicians on security force members to stabilise the situations at all costs. Members of the security forces whose loyalty was questioned also became victims of extra-judicial killings.

448 What is also evident is that a number of operatives were involved in more than one case, supporting the claim put forward by some amnesty applicants that specific Security Branch members operated as 'hit squads.' That these were not just a few low-ranking Security Branch members who had misinterpreted their instructions is evident by the extent to which authorisation or knowledge of such killings frequently involved leadership echelons such as divisional heads of the Security Branch, staff at Security Branch headquarters as well as the commanding officers of the Security Branch, Special Forces, the chief of the SADF and, in at least two cases, the Minister of Law and Order. What is also evident is that many operatives involved in extra-judicial killings, or in authorising them, had previously spent time in then Rhodesia and/or South West Africa.

449 The marked increase in eliminations after 1985 coincides with the shift in strategy to counter-revolutionary warfare. In the face of increasing militancy and unrest throughout the country, the threat to South Africa was no longer seen principally as external (in the form of armed MK insurgents infiltrating from neighbouring states), but increasingly as an internal threat. State Security Council (SSC) documentation at the time reflects an increasing anxiety regarding the seeming inability of the security forces to bring an end to internal unrest.

450 The shift to a military solution is evident in the increasingly strident language and rhetoric of politicians and security force personnel both in private and on public platforms. State documents and speeches began routinely to speak of 'wiping out', 'eliminating' and 'hunting down' members of the ANC and those who gave them support. In the words of Defence Minister Magnus Malan:

*I have often said ... that South Africa would take out terrorists wherever they found them. (Magnus Malan, Parliamentary speech, 15 Sept 1987, Hansard, Column 5912.)*

*The SADF will not hesitate to root out terrorists wherever they may be – whether it is in South West Africa, the Northern Transvaal or our residential areas and cities ... Events in our residential areas and even city streets demonstrate that we are dealing with textbook examples of communist inspired terrorism ... (Magnus Malan, Cape Times, 10 December 1985.)*

451 An August 1986 meeting of the SSC adopted a document entitled "*Strategie ter bekamping van die ANC*" (Strategy for the combating of the ANC), which included the the following recommendations: "*Om die ANC leierskap te neutraliseer* (To neutralise the ANC leadership); *Om die magte en invloed van sleutelpersone van die ANC en hulle meelopers te neutraliseer* (To neutralise the power and influence of key persons in the ANC, and their fellow-travellers)."

452 On 1 December 1986, the SSC adopted a document entitled '*Konsep Nasionale Strategie Teen Die Rewolusionêre Oorlog teen die RSA: NR 44*' which can probably be regarded as the definitive strategy document for the late 1980s phase of internal counter-revolutionary warfare. Earlier goals are again stressed, and a new dimension is introduced where it is stated that "*Intimiteerders moet dmv formele en informele polisiëring geneutraliseer word* (Intimidators must be neutralised by way of formal and informal policing)". As a follow-up to Konsep NR 44, a strategy document dated 24 January 1987 suggested that the strategy should be to "*Identifiseer en elimineer die rewolusionêre leiers enveral dié met charisma* (identify and eliminate the revolutionary leaders, especially those with charisma)".

453 The rhetoric did not always readily distinguish between persons engaged in military operations or acts of terrorism and those who opposed apartheid by lawful or peaceful means; nor did it provide a definition of 'terrorists'. Nowhere in any of the SSC documents is a clear and unambiguous definition provided for any of the terms *elimineer* (eliminate), *neutraliseer* (neutralise), *fisiese vernietiging* (physical destruction), *uithaal* (take out) or ander metodes as *aanhouding* (methods other than detention).

454 This led to a blurred distinction in the minds of the security forces. As Pik Botha explained to the Commission:

*[M]embers of the security forces would have interpreted a phrase like 'wipe out the terrorists' to include killing them, and unless the senior command structures of the security forces made sure that all ranks understood the distinction between a person who is directly engaged in the planning and execution of acts of violence threatening the lives of civilians on the one hand, and political opponents belonging to the same organisations as the terrorists on the other hand, lower ranks would probably not have made that distinction on their own.*

455 Given both documentary evidence and that given by amnesty applicants, it seems reasonable to believe that there was a growing acceptance in government that

the revolutionary onslaught could not be combated by lawful methods alone. Members of the SSC knew that the overwhelming majority of security policemen were committed supporters of the NP who were implacably opposed to the liberation movements and what they represented. They also knew that conventional methods of combating unrest and terrorism, such as arrest, prosecution and conviction, were becoming less and less effective.

456 Further compelling evidence that extra-judicial killing represented deliberate intent is to be found in the development of structures whose function was, among others, to identify and develop targets.

### **Identification of targets**

457 In November 1996, Brigadier Jack Cronjé [AM2773/96] told the Amnesty Committee that, in 1985, the security forces had established a structure, called TREWITS – the Counter-Revolutionary Information Target Centre – whose primary task was to identify targets for elimination:

*Initially [TREWITS] identified targets in the neighbouring states, terrorist bases, etc, but it was later extended to targets inside South Africa ... Col Tom Louw was responsible, or was initially in command of TREWITS with executive chief Gen Büchner who was functioning in 1987 and after that under Gen Bob Beukes and subsequently under Brig Victor ... There was a representative from Military Intelligence and SADF Special Forces. Each region maintained records with regard to who were activists, who came from what region and who caused trouble.*

458 General Johan van der Merwe, head of the Security Branch in the late 1980s and a former commissioner of police, while denying that TREWITS had ever been used inside South Africa, confirmed its existence and function in respect of target identification outside of South Africa.

459 A submission from the National Intelligence Agency compiled by two former NIS representatives on TREWITS, Mr R Roos and Mr F du Preez, with former SADF representative Mr D Vorster disputed the term 'target' (*teiken*) in the name of the unit, stating that it was officially the '*Teen Rewolusionère Inligting Taakspan*' rather than the '*Teen Rewolusionère Teiken Sentrum*':

*TREWITS was an official organ of the Coordinating Intelligence Committee consisting of government officials, officially seconded by their respective*

*departments to serve on TREWITS ... The purpose of TREWITS ... was to coordinate tactical information with regard to the former liberation movements in neighbouring countries. This included detail on facilities, movement of personnel, training camps, infiltrations and planned military operations.*

*TREWITS, however, had no mandate to get involved in the identification and execution of operations as was claimed in media reports.*

460 The Commission obtained further information on TREWITS from a joint submission by the last chairperson of TREWITS, Assistant Commissioner CJA Victor and a former SAP representative, Superintendent PCJ Vermeulen, from amnesty applications, from a series of section 29 investigative hearings with former ranking police officers and former SADF officers and the questioning of former Director General of NIS, Dr LD 'Niel' Barnard during the State Security Policy hearing in December 1997. The Commission made further attempts to retrieve TREWITS documentation but was informed by the SAP that the official holdings were destroyed when TREWITS closed down in early 1992.

461 KIK documentation shows that the decision to form TREWITS was taken in September 1986. Before this, 1986, identification of targets was done by the different security force components separately and often on an event basis. Thus, for example, the Z-squad (a BOSS component) had as early as 1974 been involved in identifying installations in neighbouring countries. Intelligence for the Matola raid in 1981 was allegedly provided by Henk Coetze and then Commandant Lieutenant-Colonel, later Brigadier) Callie Steijn of Military Intelligence.<sup>15</sup> Steijn was allegedly also involved in identifying targets for the 1983 Matola raid together with Mariette Barends<sup>16</sup> and for the June 1985 Botswana raid. (While the Commission was not able to corroborate this, it did establish that then Commandant Steijn was based in the Chief Directorate of Military Intelligence and worked on target development in the early 1980s. After a short stint as a military attache, he returned to this section and by March 1986 was responsible for the development of targets in respect of the ANC and PAC. It is therefore reasonable to assume that he carried some responsibility for the identification and/or analysis of targets in respect of cross border raids). Commandant (Lieutenant-Colonel) Jan Anton Nieuwoudt (Military Intelligence, SADF) [AM3813/96] was apparently involved in target identification between 1983 and 1988; and Major Craig Williamson [AM5181/97] admitted to being involved in target identification for the Gaberone raid.

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<sup>15</sup> See Büchner section 29; interview with Henri van der Westhuizen.

<sup>16</sup> Interview: Henri van der Westhuizen.

462 Vlakplaas was also involved in both killings and abductions in neighbouring countries from the early 1980s and there, too, operatives had clearly been involved in a process of intelligence gathering around key ANC/MK personnel in the frontline states. Notably, Commandant (Lieutenant-Colonel) Steijn was the military's full-time liaison person with Section C from 1978/9 to the end of 1982.

463 As conflict escalated towards the mid-1980s, the SADF appears to have established a target identification workgroup. One of its initial members, Captain Henri van der Westhuizen, established a sub-group in the Eastern Transvaal in late 1986, drawing on the resources of the NIS, the Security Branch and Military Intelligence. The Eastern Transvaal was seen as the buffer between South Africa and Mozambique and Swaziland and thus the primary infiltration route of MK personnel from those countries. Members of the Eastern Transvaal group included: then Warrant Officer FHS 'Lappies' Labuschagne (Security Branch) [AM5005/97], Henri van der Westhuizen (Military Intelligence), and Mr Daan du Plessis (NIS). As Swaziland was a police responsibility, this group, according to Van der Westhuizen, operated under the overall command of the divisional Security Branch commander Brigadier Schalk Visser and subsequently Brigadier Daan Siebert. Later Van der Westhuizen assisted in establishing a group in Ladybrand (OFS) which had responsibility for developing targets in Lesotho. This group was chaired by Ladybrand Security Branch commander Frik Fouche, with Paul Oeschger as the SADF representative. Similar networks were set up in Zeerust (Western Transvaal) with responsibility for Botswana, where the SADF was represented by Captain HC Nel; and in the Northern Province where Leon Nefdt served as the SADF representative. The Northern Transvaal group had responsibility for Zimbabwe and Nefdt apparently drew extensively on Daan du Plessis who had allegedly developed an extensive source base in Zimbabwe. Nel was also responsible for developing targets in Angola.

464 According to Captain Henri van der Westhuizen, SADF authorisation for the establishment of the Eastern Transvaal workgroup came from then Brig Chris Thirion (Chief Director Military Intelligence), Major General 'Joep' Joubert (General Officer Commanding Special Forces) and Major-General Dirk Hamman (Chief of Army Intelligence)

465 At about the same time as the Eastern Transvaal target workgroup was established, the decision to set up TREWITS was made. As indicated above, this decision was recorded in the September minutes of KIK. Willem Schoon told the Commission that:

*The fact that MK and eventually APLA members started using neighbouring frontline states as a springboard for launching their armed attacks against the Republic led directly to the establishment of a cross-border capability aimed at eliminating or neutralising this very real threat. A counter-Revolutionary Intelligence Task Team was created and comprised members of the NIS, the SAP and the SADF.*

466 TREWITS became fully operational on 12 January 1987 when it moved into its new offices on the 7th Floor, Charter House, Bosman St, Pretoria.

Documentation describes TREWITS as being:

*'n nuwe, gesamentlike poging deur die betrokke lede van die IG om 'n hegte inligtingsbasis vir betekenisvolle teenrewolusionére operasionele optrede tot stand te bring. (a new, joint effort by the relevant members of the IG to bring about a solid information base for meaningful counter-revolutionary operational action [emphasis added])<sup>17</sup>*

467 Its function was:

*om alle tersaaklike inligting te konsolideer, te evalueer, te vertolk en te versprei met die oog op operasionele optredes ter verwesenliking van die RSA se teen-rewolusionére strategiese doel (to consolidate, evaluate, interpret and distribute all relevant information with a view to operational actions to realise the RSA's counter-revolutionary strategic aim) [emphasis added].*

468 While TREWITS had a range of tasks, the documentation reveals that it was, from the outset, more than simply a coordinated intelligence-gathering structure, but had a clear operational intention.

469 TREWITS' operational imperatives are also confirmed by location and membership. According to General 'Basie' Smit, TREWITS was located within the C Section of the Security Branch, 'Terrorism Investigations'. While the C section had its own intelligence component, it was primarily the operational unit of the Security Branch via C1, more commonly known as Vlakplaas. Thus, while it fell under the direct command of Security Branch headquarters, it was nonetheless a sub-structure of the covert collection subcommittee of KIK. During this period, the sub-committee was chaired by Brigadier J 'Tolletjie' Botha, while the CIC was chaired by Dr LD 'Niel' Barnard.

<sup>17</sup> 'Teenrewolusionére Inligtingtaakspan' document attached to CIC agenda for meeting of 4 February 1987.

470 Of the original three TREWITS members, at least two were deployed operationally in the region. During a section 29 investigative enquiry, General Büchner acknowledged involvement in the Matola raid of 13 January 1981 and the raid into Maseru on 9 December 1982 in which forty-two people were killed. The SADF representative, Commandant (Lieutenant-Colonel) 'Callie' Steijn, was involved in target development from as at least as early as 1981 and again in 1985/6. An SADF document, dated 28 March 1986, describes Steijn as being "*baie operasioneel ingestel en behoort in daardie verband aangewend te word*" (very operationally oriented and ought to be applied in that respect).

471 Thus two of three TREWITS founding members had been involved in the identification of targets – resulting in actions that included abduction, torture and elimination – outside of South Africa prior to their secondment to TREWITS. Read together with KIK documentation, this would seem to confirm that the purpose of TREWITS was not simply to gather intelligence as members of the security and intelligence communities have currently argued, but rather that intelligence was gathered for specific operational purposes and that the location and personnel chosen were selected precisely for their operational capacity.

472 The extent to which TREWITS functioned separately from the SADF-initiated target workgroup(s) is not entirely clear. KIK documentation indicates that a decision was taken on 4 February 1987 that this group should be drawn into TREWITS to avoid duplication. The meeting of 18 February 1987 identified the following as members of the target development group who should be incorporated into TREWITS: Major C Everts (Military Intelligence Division), Major L Nefdt (Army Intelligence), Captain HC Nel (Special Forces), Captain H van der Westhuizen (Military Intelligence Division).

473 While the Commission was unable to establish a direct link, it should be noted that the decision to incorporate the target group happened at about the time when there was allegedly concern over who was responsible for the decision to assassinate the Ribeiros (see above) and when, according to Major-General AJM Joubert, a 'new procedure' was being worked out.

474 Regarding the integration of the workgroup(s) with TREWITS, evidence from section 29 enquiries appears to suggest that, while the SADF initiated target workgroup functioned on an ongoing basis, its members were drawn into regional TREWITS meetings where targets and target priorities were discussed. National TREWITS members, target workgroup members and possibly other

interested parties would be present at such meetings. In other words, these structures maintained something of a separate identity. This is corroborated by a 1989 Security Branch document which indicates that the “actual development of target studies” was still being performed by a project group of Special Forces:

Die ontwikkeling van teikens, word tans nog, soos in die verlede, deur die projekte-groep van Spes Magte hanteer. Die redes hiervoor is dat die groep nie soos aanvanklik beplan, by die kantore van TREWITS gesetel is nie en die feit dat die groep oor die nodige ervaring, kundigheid en toerusting beskik. (*The development of targets is still, as in the past, handled by the project group of Special Forces. The reason for this is that the group was not based at TREWITS offices as originally planned and the fact that the group has the necessary experience, expertise and equipment at its disposal.*)<sup>18</sup>

475 This lends credence to the ongoing and somewhat separate existence of the target workgroup. The target section of Military Intelligence was transferred to Special Forces in 1987 where it continued under the direct command of Colonel ‘Mielie’ Prinsloo, then head of Special Forces intelligence. However, individual members from Military Intelligence continued to serve on the workgroups, but were based at Special Forces. Further links were maintained, particularly with the Directorate of Covert Collection, which appears to have enjoyed a closer relationship with Special Forces than other Military Intelligence components.

476 According to Captain H Van der Westhuizen, the target development process would work in the following way. First a structure would be identified – for example, the ANC Regional Politico-Military Council in Mozambique; then all its components/sub-structures and various positions assigned and names placed next to positions. The next stage would be to develop dossiers around each individual in the structure including personal and political information. This would lead to a set of new names and so the process would continue. When a target was ‘full’ or ‘complete’, it was then ready for action. Targets, according to Van der Westhuizen, included ANC personnel and not just those associated with MK. This is born out by Nel who indicates that the entire NEC was considered a target, for whom specific authorisation for any action was not required.

477 According to the above-mentioned intelligence personnel, targets were discussed at two levels. First, a presentation was made to a group that was possibly the SADF General Staff or, at the least, very senior personnel:

<sup>18</sup> Annexure JJ, Submission General Smit.

*We used to get together once a month to do presentations to very high ranking officials. Then General Liebenberg used to come, General Gleeson used to come and I felt very intimidated as this young captain ... this is more or less a round table sort of thing with big boards, sliding walls with all the maps and all the photos of the so-called most prominent, most active people who pose a threat to the RSA were put on those boards. They were developed. We developed targets on persons; we developed targets on facilities. In other words the Revolutionary Council in Lusaka, the so-called RCL, was developed at that stage as a specific target and the houses of certain officials, certain office buildings in Harare, in Botswana were regarded as targets. And then certain activities that takes place, flights ... logistical re-supply ... were also regarded as opportunity targets.<sup>19</sup>*

478 Following this meeting, said Van der Westhuizen, the Chief of Staff Intelligence would brief the Minister and, if targets were agreed upon, they would be handed over to the tactical planning level which usually involved then Colonel 'Mielie' Prinsloo and Chris Serfontein, a high-ranking Special Forces operative. Additionally, there would be a quarterly meeting with the Directorate of Covert Collections (DCC) where priorities would be passed on for further collection and verification. At that stage HW Doncaster was in charge of the Terrorism Section of DCC.

479 The second level at which targets were discussed was at the TREWITS regional meetings. Here input would be received from both the NIS and the Security Branch.

480 Aside from official TREWITS meetings there was ongoing liaison between individuals and institutions. Target workgroup members received regular telex intercepts from the NIS 'Valkoog capacity,' whereby *all* telex communication between ANC offices both internationally and in the Frontline states was continuously intercepted. Thus, for example, information regarding the delivery of meat to ANC camps in Angola was received via 'Valkoog' and a major operation to poison the meat was planned but, to Nel's knowledge, not carried out. Other intercepts of value were those that related to travel arrangements (see Gibson Mondlane case).

481 The project group also liaised extensively with the Security Branch, both at a regional level and with C1 (Vlakplaas) and C2, under Major Martin Naudé. Naudé's unit monitored the movement of activists leaving South Africa and developed an extensive collection of photographs, which was regularly updated and was given to the *askaris* to identify possible military trainees. The *askaris* themselves appear to have been widely used and were seen as extremely valuable sources of information.

<sup>19</sup> HC Nel, section 29 hearing, 15 June 1998, Cape Town.

482 As indicated above, the twenty members of the ANC National Executive Council were regarded as priority targets. Van der Westhuizen indicated that the following people were regarded as targets in Mozambique: Mr Jacob Zuma, Ms Sue Rabkin, Mr Mohamed Timol, Mr Bobby Pillay, Mr Keith Mokoape and Mr Indres Naidoo.

483 Nel gave evidence as to the extensive infiltration of the ANC's, and to some extent, the PAC's Lesotho networks. Thus, for example, Nel said that "we made available to them an office, a telex, a facility they could use to communicate and all the telephone conversations and everything that happened was available to us". The eventual detention of virtually the entire Western Cape MK machinery arose when this Special Forces facility intercepted a phone call from a Cape Town MK operative to the Lesotho office. It needs to be noted that recruitment was not necessarily aimed at high-ranking targets, but frequently those who had access or were close to such targets. As Nel suggested, "You would get an infrastructure of sources. What we normally say jokingly, 'You start with the cleaner to end up with the General'. You start at the backdoor, you get the cleaner to work for you and the cleaner will tell you about somebody else who's got certain weaknesses and then you go one step higher and as you go higher you discard the more junior sources". Taxi drivers, in particular those who operated on the border areas, appear to have been a particular target for recruitment.

484 According to Nel, another strong component of security force strategy at this time was to place emphasis on "disruption by ... indirect means of getting the enemy to kill itself, to detain itself and to disrupt itself. And physically killing them was placed more or less ... [a]s a last resort...". This approach could obviously encompass a wide range of tactics including spreading disinformation which could lead to the detention or killing of individuals by their own cadres; tampering with weapons caches – in particular altering time devices – which appears to have been done by both Security Branch and SADF; and so forth.

485 Operations aimed at elimination were sometimes called off for logistical reasons. For example, Nel indicates that the Mozambican leg of the dual Swaziland and Mozambican operation planned for December 1986 was called off because the link-up between the seaward attacking group and Dave Tippet on land failed to materialise. This operation entailed hitting the ANC targets in Mozambique listed above and at the point at which it was called off, the seaward attack group was already in Maputo harbour.

486 Finally, political considerations provided a further factor in determining whether and when targets could be hit. Nel gave some detail about a target he had developed in Angola that was similarly called off at the last moment, this time for political considerations:

*[W]hen I arrived at Special Forces headquarters, I was given the responsibility of work on Angola specifically to identify a target with a large concentration of MK soldiers that can be attacked by the SADF ... Then it was decided that Vuyana Camp, which is about 30 km east of Luanda, would be attacked and I went all around the country and I had access to all information and I travelled abroad to Portugal and other places to debrief informers and other people ... And today you can blindfold me, I can draw the base and every little thing that was inside it ...*

*That operation went all the way up, the reconnaissance team went in and they marked up the base [with flares that would be ignited to guide the planes in] and everything was 100 per cent correct ... I was sitting in the foyer of Genl Malan's office with Colonel Prinsloo many times to present this thing and to be on stand-by and eventually to the disappointment of many people and after a lot of money was wasted and used, of naval operations and air force planning ... it was stopped due to political reasons ... It would have clashed with political initiatives [to start negotiating with the Cubans] at that stage. It was the right target at the wrong time.*

487 At other times, however, political considerations dictated carrying out operations based on old or incomplete intelligence. Thus examples were cited when a political decision was made to retaliate against ANC actions and operations would be conducted based on what intelligence personnel regarded as old intelligence, leading frequently to the wrong targets being hit.

488 From evidence before the Commission, it would appear that, while almost all the initial work focused on external targets, a decision was taken later to develop internal targets. Captain HC 'Chris' Nel explained how this came about:

*[A]fter doing this total presentation that we worked through all the night ... and we worked through Botswana and Zimbabwe and all the countries and we plotted the individuals' houses and their photos were there and all the facilities ... And then we were very disappointed when Genl Liebenberg said to us: "You are missing the point. I do not see any information about the top structure of the SACP. The whites, where are they? The UDF, where are they?"... It was explained to us that there were pipelines. The Botswana*

*machinery may be in Gaberone to day but tomorrow they are somewhere in the Western Transvaal. So should we stop our operation at the border or should we follow the pipelines through to their courier systems and their safe houses inside the country?*

489 Following this, Chris Cloete was specifically tasked to look at the internal situation.

490 KIK documentation shows that, from early on, target identification and development was to be one of TREWITS' responsibilities. An item in the KIK minutes for October 1986 (that is, one month following the decision to set up TREWITS) states:

*3.3. Teeninsurgensietaakspan en databank*

*3.3.1. Die Voorsitter (ie Niel Barnard) deel mee dat NI oor wardevolle inligting beskik wat by die taakspan ingevoer sal word. Dit behoort te help om sekere belhamels uit die stelsel te verwyder, dog met groot omsigtigheid behandel word om die betrokke intelligensiebates (ie sources/ agents) nie te ontbloot nie.<sup>20</sup> [Emphasis added]*

491 Although Barnard does not refer to TREWITS by name, in all probability this is what was being referred to. Moreover, a document presented to the KIK meeting of 4/3/87 includes under functions of TREWITS:

*Die insameling van alle inligting tov ANC-teikens in die buiteland ... en die byhou van sodanige inligting met die oog op optrede teen ANC-teikens.*

492 Similarly, 'Teikenontwikkeling' is added to the list of issues identified for collection of intelligence. This decision was further reiterated at the meeting of 14 and 18 May, where KIK decided that:

*TREWITS ook as die sentrale invoerpunt vir teikeninligting vanaf die Intelligensiegemeenskap moet dien.*

493 TREWITS was an exclusively national unit, attached to the C section of the Security Branch. However, the unit did liaise with regional intelligence gathering networks on a regular basis. At such meetings, the Security Branch would generally be represented by the regional officer commanding or a senior officer; NIS by a middle level personnel; and the SADF by senior Special Forces or DCC staff.

494 The following people have been identified as having attended regional TREWITS meetings: Captain PR Krause and/or Brigadier Loots (Western Transvaal), Schalk

<sup>20</sup> KIK minutes 21 October 1986

Visser, FHS Labuschagne and Major Chris Deetleefs (Eastern Transvaal), Captain Van Jaarsveld and/or Captain Loots and later Captain Roelof Venter (Northern Transvaal), Lieutenant Colonel Anton Pretorius of the Soweto Intelligence Unit and Daan du Plessis from NIS.

495 In addition to formal TREWITS meetings, those who attended TREWITS meetings in the regions enjoyed ongoing and regular liaison with those involved in the target workgroups/ Project Section of Special Forces.

496 Thus, Nel made extensive use of the Western Transvaal networks:

*... from all the police structures that I liaised with, the policemen in the Western Transvaal knew what Special Forces wanted. It was seldom necessary for me to develop a target much further. If they give me a target, I can take it like that to Special Forces and it was 99% complete because the Co-operation between Special Forces and the police dated back to the early 1980s... They knew that Special Forces were even interested in the name of the dog and how thick the burglar bars are... They would put together a target the way military people would think, because of previous experience..... They fitted into the TREWITS liaison system ... very easily because TREWITS was there to develop targets and they knew how to do it.<sup>21</sup>*

497 The document '*Teenrewolusionêre Inligtingtaakspan*' referred to earlier describes the enemy as the ANC, the SACP, the PAC and the UDF. According to the document submitted by former TREWITS chair, CJ Victor and Peet Vermeulen, the target fields were laid down within the Co-ordinating Intelligence Committee guidelines. These included:

*Individuê, strukture, fasilitate, wapentuig, infiltrasies, infiltrasieroetes, opleidingsplekke, voertuie, kommunikasienetwerke, modus operandi, ens. Die taakspan het hom bepaal by inligting mbt organisasies en individue wat rewolusionêre – of blote geweldsoogmerke gehad het....<sup>22</sup>*

498 Schoon described the brief as follows:

*It was their task to properly evaluate and co-ordinate all intelligence regarding the revolutionary threat facing the RSA and especially with regard to identifying and prioritising political targets which posed such a threat. These threats could be in the form of an individual, a group, an organisation, an*

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21 Nel, Section 29

22 Document, '*Teenrewolusionêre Inligtingstaakspan (TREWITS) opgestel deur CJA Victor and Superintendent PCJ Vermeulen, n.d.*

*accommodation or logistical facility and were prioritised in terms of the level of political destabilisation each target posed.<sup>23</sup>*

499 Although TREWITS documents indicate a wider focus than the ANC, it would appear that the focus was almost exclusively on the ANC. There has been some dispute as to whether TREWITS had an internal or an external focus. Thus the NIA document compiled by former TREWITS members as quoted earlier indicates that TREWITS focused exclusively on the liberation movements in neighbouring countries. Regarding the elimination of targets by TREWITS, General van der Merwe, is on record as saying "In the country, no, but overseas, yes".

500 In direct contradiction to these views, the former Director General of NIS, Dr LD 'Niel' Barnard, asserted that: "I cannot remember that TREWITS ever was involved in foreign intelligence but I understand they did that on occasion".<sup>24</sup>

501 The evidence from other submissions and section 29 investigations would seem to concur that TREWITS dealt with both the external and internal situation. It is possible that the initial function of target identification was to identify targets for cross-border raids, but that this was later broadened to include identifying and tracking particular individuals involved in military and/or underground structures and, according to the 'pipeline' notion, would thus have included the movement of individuals from neighbouring countries to inside South Africa.

502 With regards to Security Branch personnel, it needs to be noted that many were operationally deployed in the region, both before and after the establishment of TREWITS. Similarly Military Intelligence personnel have indicated knowledge, if not participation, in operations. Of the amnesty applicants said to have attended regional meetings, Commission analysis indicates that they have applied for approximately eighty-two killings, seven attempted killings and four abductions and/or acts of torture.

503 A number of points need to be made about the violations referred to above. Firstly, these figures are not complete, but are based on the list of names referred to above as having attended regional TREWITS meetings.

504 Secondly, involvement in killings, primarily cross-border killings, precedes both the establishment of target group(s) and TREWITS. This would indicate that people attending TREWITS meetings as regional representatives had previously

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<sup>23</sup> Schoon, Section 29, November 1996, CT

<sup>24</sup> Security Policy hearing December 1997 CT

played a significant role at both an intelligence-gathering and operational level and the question needs to be asked as to whether they were chosen to represent the regional security branch at TREWITS meetings for precisely this reason. What is also significant about Security Branch members who were drawn into TREWITS meetings in the regions is that many had been engaged in border duty both in then South West Africa and/or Rhodesia, once again showing the continuity between counter-insurgency warfare in the region and Security Branch work inside South Africa. It would appear that those chosen for service in the regions were chosen precisely for their counter-insurgency experience.

505 Thirdly, in the period in which TREWITS existed (post December 1986), there are both internal and external killings and it is reasonable to speculate that these are directly associated with some form of target identification.

506 Fourthly, some operatives from different regions/divisions are involved in the same operations. These networks that developed between different operatives are crucial in understanding the culture and pattern of killing that developed.

507 Finally, the involvement of senior security branch personnel such as divisional heads (Visser and Loots) and branch heads (Deetleefs) is a significant indicator of the level of sanction.

508 There can be no doubt that those identified as attending regional TREWITS meetings saw their function, centrally, as target identification, and that once an individual's name appeared on a TREWITS target list, he/she was seen as a legitimate target. In the words of a participant: "What did they think we were collecting all this information about addresses, cars, movement for? To send Christmas cards?"

509 KIK documentation and Commission investigations indicate that the functioning of TREWITS may have declined, particularly after 1988, as a result of internal conflicts and political developments. However, the set of networks that had been established continued to function.

THE COMMISSION REJECTS THE STANDPOINT OF FORMER NIS DIRECTOR GENERAL NIEL BARNARD AND OTHER FORMER NIS OPERATIVES WHO HAVE DENIED INVOLVEMENT AND/OR KNOWLEDGE THAT INTELLIGENCE GATHERED WAS PUT TO OPERATIONAL USES THAT INCLUDED ELIMINATION. IN EVIDENCE BEFORE THE COMMISSION, DR BARNARD CONCEDED THAT INFORMATION WAS PROVIDED BOTH TO THE SECURITY BRANCH AND THE SADF BUT CLAIMED THAT 'THE DEFENCE FORCE WAS NOT UNDER MY RESPONSIBILITY NEITHER THE POLICE. WHAT THE POLICE OR THE ARMY DID WITH THE INFORMATION I DO NOT KNOW.' THE COMMISSION FINDS

HIS VIEWPOINT THAT THE MANNER IN WHICH INTELLIGENCE SUPPLIED BY HIS AGENCY WAS USED, WAS NOT HIS CONCERN, UNACCEPTABLE.

THE COMMISSION FINDS FURTHER, THAT:

- EXTRA-JUDICIAL KILLINGS WERE UNDERTAKEN BY A NUMBER OF DIFFERENT SECURITY BRANCH DIVISIONS AND BY THE SPECIAL FORCES AND OCCURRED ACROSS THE COUNTRY BUT WITH A CONCENTRATION IN AREAS ADJACENT TO SOUTH AFRICA'S BORDERS WITH ITS IMMEDIATE NEIGHBOURS AS WELL AS WITHIN THOSE STATES;
- EXTRA-JUDICIAL KILLINGS WERE OFTEN THE END RESULT OF A PROCESS OF OPERATIONALLY DIRECTED INTELLIGENCE COLLECTION ON TARGETED INDIVIDUALS. ALL THREE PRIMARY SECURITY INTELLIGENCE ARMS – NATIONAL INTELLIGENCE SERVICE (NIS), SECTION C2 OF THE SECURITY BRANCH, AND MILITARY INTELLIGENCE – UNDERTOOK SUCH ACTIVITIES AND CO-ORDINATED THEIR INFORMATION THROUGH JOINT PARTICIPATION IN SO-CALLED TARGET WORKGROUPS FORMED IN 1986 IN CERTAIN SELECTED STRATEGIC AREAS (EASTERN TRANSVAAL, SOUTHERN FREE STATE) WHOSE ROLE WAS *INTER ALIA* TO TARGET INDIVIDUALS FOR KILLING OUTSIDE OF SOUTH AFRICA'S BORDERS AS WELL AS CO-ORDINATING STRUCTURES SUCH AS THE TEEN REVOLUTIONARY INFLIGITINGS TAAKSPAN (TREWITS);
- EXTRA-JUDICIAL KILLINGS WERE TARGETED PRIMARILY AT HIGH-PROFILE ACTIVISTS INSIDE AND OUTSIDE SOUTH AFRICA; THOSE BOTH CONNECTED TO BOTH MILITARY (MK AND APLA) AND NON-MILITARY STRUCTURES; AT THOSE ACTIVISTS OR PERCEIVED ACTIVISTS WHOSE CONVICTION HAD NOT BEEN SECURED THROUGH THE JUDICIAL PROCESS OR WHERE IT WAS BELIEVED THAT JUDICIAL ACTION WOULD NOT SUCCEED; AS WELL AS AT OWN FORCES WHOSE LOYALTY CAME INTO QUESTION;
- EXTRA-JUDICIAL KILLINGS WERE OFTEN ACCCOMPANIED BY THE DELIBERATE PLACING OF WEAPONS ON OR NEAR THE BODIES OF VICTIMS AFTER THEY HAD BEEN KILLED.

THE COMMISSION FINDS THAT SUCH EXTRA-JUDICIAL KILLINGS TOOK THE FORM OF:

- THE ASSASSINATION OF ACTIVISTS BY STATE OPERATIVES WHERE THE MODUS OPERANDI IN MANY CASES WAS SUCH THAT THE KILLING WOULD BE LAID AT THE DOOR OF A THIRD PARTY;
- AMBUSHES OF COMBATANTS OR THOSE LINKED TO MILITARY STRUCTURES ENTERING SOUTH AFRICA. WHILE THE COMMISSION WAS UNABLE TO ESTABLISH INTENT TO ELIMINATE IN EVERY CASE, THE PATTERN THAT EMERGES IN THE POST-1985 PERIOD IS THAT IN MANY INSTANCES LITTLE OR NO ATTEMPT WAS MADE TO EFFECT ARRESTS, LENDING CREDENCE TO THE VIEW THAT ELIMINATION WAS THE PRIMARY PURPOSE;
- ENTRAPMENT KILLINGS WHERE SECURITY FORCE PERSONNEL PARTICIPATED IN THE RECRUITMENT AND/OR MILITARY TRAINING AND/OR SUPPLY OF WEAPONRY (SOMETIMES BOOBY-TRAPPED) TO ACTIVISTS WHO WERE THEN ELIMINATED;
- THE KILLING OF PERSONS IN THE PROCESS OF EFFECTING AN ARREST OR WHILST THEY WERE POINTING OUT ARMS. AS IN THE ABOVE CASE, A CLEAR PATTERN EMERGES THAT MANY OF THESE WERE KILLING ACTIONS;

THE COMMISSION FINDS THE FOLLOWING STRUCTURES AND INDIVIDUALS TO BE ACCOUNTABLE FOR THE EXTRA-JUDICIAL KILLING OF POLITICAL OPPONENTS: THE STATE PRESIDENT, MINISTERS OF LAW AND ORDER, DEFENCE, FOREIGN AFFAIRS, COMMISSIONERS OF POLICE, CHIEFS OF THE

SECURITY BRANCH AND HEADS OF C SECTION, CHIEFS OF THE DEFENCE FORCE, OCS SPECIAL FORCES, CHAIR OF THE SADF GENERAL COMMAND COUNCIL, CSI , GENERAL MANAGER CCB, DIRECTOR GENERAL, NIS

FURTHER, ALL MEMBERS OF THE CABINET AND THE SSC ARE FOUND TO BE INDIRECTLY ACCOUNTABLE.

## Attempted killings, arson and sabotage

510 The Commission received a number of amnesty applications detailing the direct involvement of members of the security forces in acts of sabotage and arson, including an application by former Minister of Law and Order Adriaan Vlok and Security Branch head General Johan van der Merwe, implicating State President PW Botha. While many of these cases did not result in gross violations of human rights, some can be classified as attempted killings and therefore gross violations.

511 Evidence before the Commission reveals that intimidation and disinformation provided the rationale for such attacks. Activists and their supporters needed to be aware that if they got involved in political activities, dire consequences would follow. Furthermore, the idea that the political conflict was a consequence of internecine strife within the black community, commonly referred to as black-on-black violence, was promoted amongst the general public.

512 The involvement of the security forces in such attacks appeared to accord with state policy. This is reflected in a document prepared for a working group of the Joint Security Staff in January 1987 which refers to the '*Fisiese vernietiging van rewolusionêre organisasies (mense, fasiliteite, fondse, ens) binne- en buitelands deur enige overte en koverte metodes*' (Physical destruction of revolutionary organisations (people, facilities, funds, etc) inside and outside the country by overt and covert methods)<sup>25</sup>.

## Cosatu House, Johannesburg

513 Cosatu House, which housed the national offices of the Congress of South African Trade Unions (COSATU) and a number of its affiliates, was extensively damaged by two bombs in the early hours of 7 May 1987. The bombs, described at the time as "the most powerful ever detonated on the Reef", were placed in the basement of the building. The damage they caused was such that the building

<sup>25</sup> Strategiese oorwegings ten opsigte van die inisiering van die kontramobilisasié in die RSA. (Strategic considerations in respect of the initiation of contra-mobilisation in the RSA.) Document prepared for the GVS-werkgroep, 24 January 1987, 22/3/2/44.

was declared structurally unsafe. At the time of the explosion there were about twenty people in the building, two of whom were slightly injured.

514 This and the Khotso House incident described below are the only instances for which a member of the former government applied for amnesty for an unlawful act. Mr Adriaan Vlok and General JV van der Merwe rationalised this decision, saying that the May 1987 general election had sparked off new levels of resistance. Furthermore, a country-wide strike by railway workers had assumed violent proportions in attacks on railway property and the holding hostage of five strike-breakers by members of the South African Railways' and Harbour Workers' Union (SARHWU) at Cosatu house. Four of the hostages were subsequently taken from the building and killed. Vlok and Van der Merwe said also that the Security Branch was in possession of information showing that underground ANC members and trained MK soldiers were using Cosatu House as a base for planning, among other things, an attack on members of the police. Van der Merwe said that this view was shared with the intelligence community as a whole and the SSC structures.

515 According to both Vlok and Van der Merwe, a crucial factor in their decision to destroy Cosatu House was their conviction that other legal methods to remove the threat posed by Cosatu House would be ineffective, especially after the detention of the SARHWU general secretary, Mike Roussos, whom they believed to be part of underground networks, had been successfully challenged in court. In the words of Van der Merwe:

*We detained about 40 000 people at one specific time and I often said to Vlok that this does not lead to anything. We cannot keep them indefinitely. As soon as we detain them we cause that person, not only that person but also his family and all his friends, we brought them all into unrest against the police, in opposition to the government.*

516 The hope was that an effective bombing of COSATU House "would cause so much disruption that it would give us a breathing space."

517 Van der Merwe instructed Brigadier Willem Schoon, head of the C section, to get C1 to make the necessary plans. Van der Merwe also briefed the Witwatersrand Security Branch divisional head, Gerrit Erasmus, and instructed Sergeant Bosch, head of the Vlakplaas technical department, to construct the explosive device. It was important to the operation that firearms and explosive devices were the same as those used by the liberation movements.

518 Several teams were responsible for the actual operation: the team wearing balaclavas and armed with AK-47s who would penetrate the area; a team to distract the guard, if necessary using 'spiked' alcohol; a team consisting of black members to patrol the area on foot with batons and to ensure, using violence if necessary, that no one passed through the operational area; a team to warn of any approaching traffic or police vehicles; and the command team consisting of Van der Merwe himself and Brigadier Schoon. In addition, Deon Greyling of the Witwatersrand Security Branch was assigned to tune in to the frequencies of the Johannesburg traffic police, the SAP Murder and Robbery Unit, the Uniform Investigation Unit and the Flying and Dog Squads. Eugene de Kock was in overall command.

519 Later a braai was held for the white Vlakplaas members to celebrate the success of the operation. It appears that black members may have received R200 each for their participation.

520 Under cross-examination at the amnesty hearing, both Vlok and Van der Merwe remained adamant that the action taken at Cosatu House was purely because of the use of the building by persons intent on 'acts of terror' and not linked to the numerous attacks, burglaries and raids that took place on Cosatu offices around the country in May and during the months that followed.

### ***Khotso House, Johannesburg***

521 Khotso House, the headquarters of the South African Council of Churches (SACC), was destroyed by explosives on 1 September 1988. Khotso House was also the national headquarters of the UDF. Vlok alleged that incidents of violence had followed meetings held by the UDF and/or its affiliates in the building and that individuals in Khotso House were using it to further 'terrorist' activities.

522 In June 1988, President PW Botha requested Vlok to stay behind at the end of a regular SSC meeting, where once again the role of the Council of Churches and other organisations had been discussed:

*Mr Botha ... told me ... "I have tried everything to get them to other insights, nothing helped. We cannot act against the people, you must make that building unusable." ... He furthermore also said: "Whatever you do, you must make sure that no people are killed." He didn't say how it had to be done, he just said what had to be done.*

523 Again the matter was passed on to the C1 unit in co-operation with the Witwatersrand Security Branch.

524 Colonel Eugene de Kock foresaw the loss of life, notwithstanding the injunction to prevent it. Khotso House was located near a block of flats in a part of the city which experienced the “permanent flow of human traffic”. The Commission heard that, when De Kock asked what should be done if the team was confronted by other SAP members who would naturally regard them as armed ‘terrorists’, Brigadier Erasmus responded, “Shoot them”.

525 During the operation, a black uniformed policeman peered through a window into the basement. This led De Kock to expedite the operation by placing the rucksacks of explosives in front of the two lifts. The operational teams withdrew in the direction of Hillbrow and waited for the devices, activated by electronic time devices, to detonate.

526 While no fatalities were incurred, at least twenty-three people were treated for injuries and shock after the explosion. Mr Adriaan Vlok publicly expressed his condolences to those who had been injured. SAP spokesman Brigadier Leon Mellet stated that it was believed that the explosion could have originated in the basement of Khotso House where explosives were thought to be stored. General Jaap Joubert (now deceased) was assigned to the investigation into the blast and a disinformation campaign by the STRATCOM section of the Security Branch swung into action.

527 Joubert later informed Vlok that a witness had testified to the fact that he had given a lift to a white male, a white female and a coloured male and had, at their request, dropped them close to Khotso House on the day of the explosion. After dropping them, he had seen them make contact with a black male in a red car. The woman was identified as Ms Shirley Gunn and was suspected of involvement in underground military activities. Having been assured by Joubert that Gunn was in any event being sought by the Security Branch, Vlok regarded this information as a ‘godsend’ and it was decided that her name would be publicly released as a prime suspect. Gunn was later detained.

528 Vlok said that PW Botha congratulated him, at an SSC meeting, on work well done. Evidence by both Vlok and Van der Merwe at the amnesty hearing further indicated that, at the time of the NP’s second submission to the Commission, former President de Klerk had been aware of their involvement in both the Cosatu and Khotso House bombings.

529 A number of amnesty applicants said that the security forces' involvement in high-profile attacks such as on the London ANC offices, Khotso and Cosatu House was widely suspected by their members and that, given the high-profile nature of such cases, this could only have happened with authorisation at the highest level.

### ***Other sabotage attacks***

530 Aside from the above two highly publicised cases, the Commission received numerous amnesty applications from former members of the security forces detailing other attacks on offices, on individuals' homes and on vehicles belonging to opponents of the government.

531 In the *Cry Freedom* incident, bomb threats originating from the Security Branch had the effect of preventing the screening of David Attenborough's film on the life and death of Steve Biko. The Minister of Internal Affairs had failed to persuade the Appeal Board of the government-appointed Publications Committee to reverse its decision permitting the screening. Adriaan Vlok told the Commission:

*[W]e had walked the legal way, we had tried everything possible. If you take everything into consideration, I judged the risk that this film would have and it was so enciteful [sic] that this risk was too big.*

532 At a meeting in Minister Vlok's office, attended by Security Branch head Johan van der Merwe, General Jaap Joubert and STRATCOM expert Brigadier McIntyre, it was decided that bomb threats would create 'an atmosphere of fear', thus forcing the distributors to withdraw the film from the circuit. Interventions included the placing of a small explosive device outside the Highgate shopping centre in Roodepoort and outside the Metro Cinema in West Street, Durban, as well as bomb threats made to several cinemas by Security Branch members posing as right-wingers. Following these incidents, the commissioner of police, General de Witt, issued an order on 30 July in terms of the state of emergency media regulations, in which further screening of the film was prohibited owing to the danger it presented to public order and security.

533 Those who applied for amnesty for these incidents are AJ Vlok [AM4399/96], General JV van der Merwe [AM4157/96], Major General JH le Roux [AM4148/96], Major General JA Steyn [AM4513/97], CS Heyneke [AM4144/96] and JCWK Louw [AM4150/96].

534 An attack on the home of Labour Party MP Allan Hendrickse originated from the Security Branch headquarters in the eastern Cape. According to amnesty applicant Abraham Christoffel Kendall [AM3757/96], a named general at Security Branch headquarters instructed him, in September or October 1998, to consult with the branch commanders of Port Elizabeth and Oudtshoorn to plan hand grenade attacks on the homes of Hendrickse and another Labour Party leader, a Mr April. Kendall said that the reason offered for the attacks was that Hendrickse and April were unwilling to vote on certain legislative changes. Kendall conveyed this instruction to the Port Elizabeth and Oudtshoorn Security Branches. On his return to Johannesburg from the eastern Cape, Kendall heard on the news that Hendrickse's house had been attacked with a hand grenade.

535 The Security Branch in the Eastern Transvaal was responsible for several arson attacks on houses in the Kanyamazane area belonging to ANC members in 1986 and 1987. According to amnesty applicant Izak Daniel Bosch [AM3765/96], these attacks were aimed at protecting the lives of Nelspruit Security Branch police informants. Members of Vlakplaas petrol-bombed houses belonging to 'comrades', targets being provided by the Nelspruit Security Branch. In another attack, the house of a black trade unionist was petrol-bombed by Mr Christopher Mosiane [AM3768/96] and another named *askari*.

536 Mosiane also applied for amnesty for an arson attack on a church in Witbank, Eastern Transvaal, allegedly on instructions from the Witbank security police. According to Mosiane, the reason was that the church was being used by activists.

537 Amnesty applications were received from Josephus DL Coetser [AM3758/96] and Jacques Hechter [AM2776/96] in respect of bombing/s of the house of activist/s in Ekalanga in the Northern Transvaal in 1986 or 1987 (according to Hechter) and February or March 1986 (according to Coetser). It is unclear whether the two applications refer to the same incident.

538 On 28 May 1986, an arson attack orchestrated and executed by the Security Branch at Oukasie destroyed the home of David and Joyce Modimeng and resulted in the death of Ms Modimeng. The situation in Oukasie at the time was tense as residents were opposing a government decision for their removal to Lethabile near Brits. Mr MAS Pretorius [AM5467/97] applied for amnesty for the attack. The homes of Mr Sello Ramakobye and ANC member Leonard Brown, both opposed to the removals, were petrol-bombed on 17 May 1988 in attacks perpetrated by security police. Nobody was killed or injured in the incidents.

539 Mr Oupa Masuku's home in Atteridgeville was bombed in early 1986 in an attack conducted by Josephus DL Coetser [AM3758/96], Hechter and a black policeman. A day after the explosion, Coetser was informed that Masuku's mother, Ms Esther Masuku, had been killed. Upon hearing that an innocent person had been killed, Coetser decided that he could no longer be involved in these operations and was excused from his duties by Brigadier Cronjé.

540 Houses were bombed at Mamelodi and Soshangue in February 1986 in attacks perpetrated by Coetser, Hechter, JJ Viktor, jnr [AM4371/96] and others. The targets were houses of prominent black political activists. Coetser said that Hechter informed him that one person was killed in one of the Mamelodi explosions.

541 In about 1989, Colonel Eugene de Kock received orders to burn down a church building in Pretoria, which was allegedly being used by the ANC to print Communist literature and anti-government propaganda. Members of the Vlakplaas unit planned and executed a petrol-bomb attack on the church. The press reported that several people were in the church at the time of the attack and were rescued by the fire brigade.

542 Mr David Jacobus Brits [AM3745/96] applied for amnesty for landmine explosions at Daveyton and Benoni. Others involved were De Kock, Vermeulen, Nortjé, Mentz, Snyman, de Swardt, with De Kock who authorised the operations. The aim was to intimidate ANC members and supporters. Nobody was injured or killed in the explosions.

543 Mr JH le Roux [AM4148/96] and other Security Branch members engineered a controlled explosion near an unused railway line at Factoria, Krugersdorp in 1987/8. The operation was set up for an police informer who had successfully infiltrated MK structures in Botswana and who had received orders to commit an act of terrorism in South Africa, to show that he was ready to work as an MK operative. They made sure that the media reported on the explosion so that the informer could report back positively to MK.

544 A controlled bombing of a house in Klipspruit, Soweto, was planned and executed by members of the Security Branch in the Witwatersrand in 1985/6 in order to maintain the credibility of an agent by the name of Sebatiaan Reed in the wake of the arrest of an ANC courier who was staying with Reed. The explosion was planned by Reed's handler, Colonel W Coetzee, and Mr L de Jager [AM4216/96].

545 Other ‘credibility operations’ were planned by the SIU, which had recruited MK members allegedly part of the underground based in Soweto and Swaziland. Two of the infiltrated deep-cover agents underwent military training in Swaziland and were assigned by MK to reconnoitre Wits Command and to launch an attack on the morning parade with hand grenades. After their return to South Africa, they were debriefed by the Security Branch. The attack was not carried out. Later, two ‘credibility operations’ took place, in the form of attacks on a power station and a railway line in Johannesburg. The actions were authorised by Brigadier W Schoon and Brigadier H Muller. These attacks – and further attacks on the railways – were successfully conducted and MK slogans were painted at the scene. This credibility operation helped undercover agents to penetrate more deeply and ultimately facilitated the arrest of various MK leaders in Soweto.

546 An operation to damage the Ipeleng Centre, used for meetings by the Soweto Youth Congress (SOYCO) between 1985 and 1988, was authorised by Lieutenant General I Coetzee. Anton Pretorius was informed by De Jager that named Special Forces operatives would be involved. An inflammatory device using a mixture of petrol and diesel was used, but did not cause much damage.

547 The ‘Why Not’ nightclub in Hillbrow was bombed on 22 September 1988 in reaction to the two limpet mine explosions at the Vanderbijl bus terminus. The club was targeted as it was opposite the Café Zurich Club where a hand grenade had been planted by ANC member Peter Dlamini earlier in the year. On the night of the operation, Mr Charles Zeelie, an explosives expert, fetched Warrant Officer AJ van Heerden [AM4134/96] from his home. Warrant Officer Van Heerden, assisted by Zeelie, was personally responsible for planting two mini limpet mines under a seat in the nightclub. While nobody was killed, some people sustained injuries and the building was damaged. Other amnesty applicants include Mr PL du Toit [AM4131/96] and Mr GN Erasmus [AM4134/96], then divisional commander of the Witwatersrand.

548 An internal sabotage operation by the CCB was the blowing up of the Early Learning Centre (ELC) in Athlone, Cape Town on 31 August 1989. This was a region 6 project for which all its core members have applied for amnesty. The ELC was targeted because it was frequently used by community organisations for meetings. While the amnesty applicants claimed that great care was taken to ensure that there were no casualties, the explosion happened on a night when the building was routinely used by executive members of the Cape Youth Congress.

549 In 1989 a bomb was detonated by the security police at the whites-only public toilets in the Strand, Cape Town during the UDF 'Open the Beaches' campaign. The explosives originated from Vlakplaas. De Kock ordered Wouter Mentz to deliver a minibus loaded with explosives to the Cape Town security police. Mentz, Colonel Dave Baker and Colonel L de Jager accompanied members of the Cape Town security police in this operation. No one was injured in the explosion.

550 In Durban, Mr Griffiths Mxenge's house was petrol-bombed by members of the Security Branch linked to Andy Taylor's unit. Taylor provided the material to make the petrol bombs, which were then used on Mxenge's house and one other house in Umlazi.

## Contra-mobilisation

### ***Support to surrogate and opposition groups***

551 Other chapters of this report deal with the former state's use of surrogate forces and covert support to opposition groups outside South Africa. Major Craig Williamson told the Commission that this strategy was adopted and used actively from the 1980s on the principle that "my enemy's enemy is my friend." Several specific operations were undertaken. The strategy was also implemented internally through the practice of 'contra-mobilisation'.

552 The two most prominent examples of operations designed to create, bolster or train 'middle groups' to counter the revolutionary threat were *Operation Marion* and *Operation Katzen*. The former was fully implemented; the latter only partially. Both operations were run as DST 2 projects with input and training from Special Forces. Both are dealt with elsewhere in the Commission's report. *Marion* involved the building of the counter-revolutionary capacities of Inkatha as a bulwark against the UDF and ANC. *Katzen* involved efforts to build a traditionalist, ethnically-based bulwark against the resistance movements in the Eastern Cape.

553 Contra-mobilisation was essentially the practical implementation of the principles of 'strategic communication' or 'STRATCOM' (also known in military terms as communication operations, or 'COMOPS') – counter-propaganda to motivate the population to oppose the revolution<sup>26</sup>. At this point the only aspect of STRATCOM covered in this report is that of contra-mobilisation. As there were

<sup>26</sup> In 1984/85, the SSC established a special committee to investigate strategic communication and the co-ordination of counter-propaganda among departments. In line with the greater emphasis on STRATCOM, the Strategic Communications Branch of the SSC was reformulated and various state organs allocated responsibilities in this regard.

amnesty applications pending at the time of reporting, the broader issue of STRATCOM will be covered in the Amnesty Committee's report.

### ***Contra-mobilisation***

554 Contra-mobilisation is an important principle of counter-revolutionary warfare developed by American military and intelligence analysts in the 1960s. It holds that, in revolutionary warfare, the most significant battle is for the 'hearts and minds' of the population, and that security strategies should therefore be 80 per cent political and only 20 per cent military. This approach was increasingly incorporated into the SADF's security perspectives from the 1960s and was reproduced virtually in text book form by senior SADF strategists such as Brigadier CA Fraser.<sup>27</sup>

555 In the South African context, contra-mobilisation was used to organise and support 'moderate blacks' to oppose the revolutionary movements. Of necessity, it was a covert strategy – concealing the hand of the state as provider of logistical, political and financial support – and making use of 'surrogate' forces. Hence, the state would not be seen to be involved in the conflict and violence between groupings and the resistance organisations.

556 Elements of the theory and practice of contra-mobilisation can be traced to the early 1980s. From 1985 it received the attention of the State Security Council (SSC), resulting in the January 1987 'position paper' which postulated that the idea was an integral part of 'Strategy 44', which was developed in the Total Strategy Branch of the SSC, and was formally adopted by the SSC in December 1986 as the "*Nasionale Strategie teen die Rewolusionére Oorlog teen die RSA*" (National strategy against Revolutionary War against South Africa).

557 Strategy 44 aimed "to mobilize groups and individuals to defend themselves and to offer resistance against revolutionary actions", giving "moderate blacks" support in political developments. It held also that counter-revolutionary organisations should be "developed on an ethnic basis to prevent radicals from utilising the political vacuum".

558 The term contra-mobilisation was used in official documentation to refer to more offensive actions in which the population is seen as a direct vehicle to crush the revolutionary threat. For example, a November 1985 discussion document authored by National Intelligence Service states:

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<sup>27</sup> Brigadier CA Fraser, *Lessons from Past Revolutionary Wars*.

*The activities of the Comrades should be rendered inoperative by the neutralization of the leadership by means of an operation called 'vasvat' [to take a firm grip], or, in an clandestine manner, to make them the target of the 'vigilantes' or 'mabangalala'. ...*

*The action against intimidation from anarchists and revolutionaries by the so-called 'vigilantes' or 'mabangalala', should, taking in consideration an organization such as Inkatha, in a clandestine manner, be reinforced, extended and portrayed as a natural resistance by moderates against anarchy.<sup>28</sup>*

559 A specific theme related to South African implementation of the principles of contra-mobilisation can be found in the fostering of conflicts, either in the ethnic dimensions mentioned above or in ideological differences. As early as 1982, the SADF proposed to the SSC that it should "exploit and encourage the division between the ANC, Inkatha and the BCM [Black Consciousness Movement] organizations."<sup>29</sup>

560 The STRATCOM branch of the SSC played an important role in this aspect as well. It is seen, for example, in a 1985 telex directive from the Secretariat of the SSC and the STRATCOM branch to regional JMCs regarding the fostering of differences between the UDF and AZAPO and advancing ideas and suggestions for further inflaming situations of conflict.

561 The security arm most directly concerned with the implementation of contra-mobilisation was the SADF. The SADF was made responsible for youth clubs, community organisations, women's organisations, traditional authorities, arts and rural development, with the aim of establishing structures to oppose the revolution. Major Marius Oelschig acknowledged in the State v Msane and 19 others that "the South African government ... through the SADF, assisted various dissident groups to create a capability, which they themselves could use ... ".<sup>30</sup>

562 In September 1985, the SADF proposed to the SSC that a national contra-mobilisation project be established, a project similar to the Etango/eZuva project in South West Africa/Namibia. The project was approved by the Minister of Defence on 11 September 1985 and the organisational structure and expenses were approved by the Chief of the Defence Force on 19 December 1985.<sup>31</sup>

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28 From file 22/3/2/44, Pretoria State Archives, Vol 3, ref NI/B3/17/1/4/19.

29 From file 22/3/2/2 ANC Total Strategy, HSAW 521/2/2/30 Vol 1, Appendix A: Military Strategic Directive (MSD) No 461 HS OPS/HDB/303/11/1.

30 Major Oelschig, State v P Msane, vol 54, p. 4225.

31 AMIKO/328/6/3/ANCOR *Uitbreiding van Kontramobilisasiestrategie* (Extension of Contra-mobilisation Strategy), 21 July 1986, Memorandum from the chief of staff intelligence to chief of the army.

563 The contra-mobilisation methods applied to Etango and eZuva were seen to be successful. It was felt that this was owing to the absence of public involvement of the SADF, which would have damaged the credibility of these organisations. The aim of the Etango project was "to motivate the Owambo people to resist SWAPO and any form of communist infiltration". It was run largely by the Directorate of Communication Operations ('COMOPS') and was intended to establish a traditional tribally oriented Owambo movement. Similarly, the eZuva project targeted the Kavango population.

564 Colonel HC 'Chris' Nel suggests that some support for the Etango project came from former SWAPO-supporting members of the local population:

*We had a high turnover of suspects, members of the local population, so-called SWAPO chairmen, people who were part of the internal support structure, that were brought in for questioning and we had to release them within thirty days. We had a very high turnover of that. They were all administered by the military police who kept records of everybody who came in there and then were released according to the law. Those who offered to become askaris [i.e collaborate], they were passed on to a structure called Etango, called Komops. There were people under the leadership of Dr Pasques who established a political organisation called Etango and this is the Ovambo word for rising sun.*

*They had a facility not very far from the POW camp and with the advantage of hindsight, today I can say that they were brainwashed, conditioned ... They were put through an extensive programme to clean their minds of all communist influences and they were recruited to become organisers and members of the DTA. That was where a large percentage of the prisoners went."*

565 Guidelines for contra-mobilisation were issued from command HQ level and were given to the territorial commands. These instructions took the form of memoranda discussed in various conferences. The regional COMOPS divisions met from time to time to exchange notes. Over and above contra-mobilisation projects undertaken by the territorial commands, COMOPS ran national contra-mobilisation projects under Brigadier FJ 'Ferdi' van Wyk.

### ***Project Capital***

566 The Federal Independent Democratic Alliance (FIDA) constitutes one example of a national project. The 1991 Kahn Committee described the project, code-named *Capital*, as a "moderate alliance of black organisations to combat violence and

advance stability", further stating that "we were told it was a very valuable source of information to the Defence Force on violence in black townships". FIDA had a head office in Johannesburg and was active in thirteen regions with at least sixty-eight employees by 1991. SADF links were terminated in September 1991 with a once-off payment of R1.47 million. Its annual budget by 1991 was at least R3 million per year.

567 *Project Ancor*, which fell under the umbrella of *Project Orange*, was identified as the national contra-mobilisation project. Other projects included *Metros*; *Mobilisering van tradisionele genesers* (Mobilisation of traditional healers); *Natal Vakbond*; *KwaNdebele project*; *Venda project*; *QwaQwa project*; *Eagle Jeugklubs* (Youth clubs) (OVS); *Vaaldriehoekse Swartjeug projek* (Vaal Triangle black youth project); *Oriënteering Swart onderwysers*; *Globale Kleurling projek*; *Kleurling Parlementariërs* (Coloured parliamentarians); *Mobilisering van gematigde Swart leiers in RSA* (Mobilisation of moderate black leaders in RSA); *Navorsingsprojek Stellenbosch Universiteit* (Stellenbosch University research project); *Caprivi-projek*; *Kaokoland-projek*; *Namaland-projek*; *Mike Wildtuin*; *Rigters*; *Kerkgroep SWA*; *Spesialisgroep Kommunikators SWA*; *SWA Swart Leiers*; and *SWA Bybelskool*. It was anticipated that the annual amounts required to cover these groupings would be in excess of R15 million.

568 ANCOR also involved the creation of a front company called Adult Education Consultants or AdEd CC in Pretoria. Its members included Dr LJ Pasques and Dr JL van der Westhuizen. The mission of the organisation was "*die effektiewe mobilisering en kontramobilisering van die verskillende groepe in Suidelike Afrika, ter beveiliging van die RSA se Nasionale Veiligheidsdoelwitte*" (the effective mobilisation and contra-mobilisation of different groups in Southern Africa, to protect the National Security goals of South Africa).

569 *Project Kampong*, under which regional projects fell, was a sub-project of ANCOR. In the Eastern Cape, an extensive network of MI-funded front companies were established from 1985 onwards with the aim of building an anti-revolutionary base of support. The Eastern Cape COMOPS unit was awarded the '*Vrede Sabel/Peace Sword*' for four years in the late 1980s as the most successful region in this field, an honour previously awarded to the South West African component. Projects included *Pullin* (East Cape Sports Foundation), *Lactone* (Lion Life Resource Corporation), and *Vallex*, and they received funding through the SADF or the STRATCOM branch of the SSC.<sup>32</sup> The above projects did not

<sup>32</sup> The (empty) files of the SSC STRATCOM branch list the following project in operation during 1985. *Projek 71: Ooskaap - betrek van Gematigde swartmense (HTSK)*.

directly involve the creation of vigilante groupings. However, the individuals who were promoted, trained and supported through the projects were sometimes themselves involved in acts of violence. The clearest example of this is Reverend Maqina and the *AmaAfrika* movement.

570 The SAP adopted some measure of activity regarding contra-mobilisation. Key SAP unrest strategist General Wandrag sent out a set of directives or guidelines for dealing with unrest to all divisional commissioners of the police and railway police, as well as army HQ on 23 March 1986. Point 11 dealt with contra-mobilisation.<sup>33</sup> In the SAP, the key channel through which vigilantes and fomentation of conflict would have been encouraged, sponsored or initiated would have been through agents employed by the Security Branch.

### ***Vigilante Activity***

571 Not all vigilante activity was a product of state engineering. Intolerant actions and coercive campaigns of the UDF and its adherents mobilised genuine disaffection and anger amongst black residents, forming the basis for retaliatory actions by so-called 'vigilantes'. Nevertheless, Commission investigations produced evidence of a range of levels of endorsement, support and management of vigilante groupings by different security arms of the state.

572 The detailed substance of the conflicts that swept through Port Elizabeth and Uitenhage are covered in Volume Three. In summary, during 1985 there were violent conflicts between UDF and AZAPO as well as the Azanian Youth Organisation (AZANYU). By early 1986 the anti-UDF grouping re-emerged as a group called the *AmaAfrika*. Evidence shows that, while there were genuine conflicts between the UDF and AZAPO, the security forces used these as the basis for the creation and support of vigilante groupings which perpetrated serious violations and escalated the conflict.

573 A central figure in the conflicts was Reverend Mzwandile Ebenezer Maqina. Initially a member of AZAPO, he was expelled from the organisation in January 1986 after the first wave of violence between AZAPO and UDF members in 1985. Thereafter the Azanian Youth organisation (AZANYU) and the *AmaAfrika* movement became his political vehicles. In addition, he was associated with various welfare bodies such as the Black Crisis Centre (BCC), Save the Child, and the African Person's Concerned Committee (APCC). During the early 1990s

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<sup>33</sup> Kriptoerig, 25/3/86, GVS/GOS Instruksie: GVS *Riglyne vir Optredes ter bekamping van die onrus/onlussituasie* (Guidelines for action to combat the unrest situation).

he was again associated with initiatives such as the Siyaakha Peace organisation and youth movement, the Black Crisis Forum and the anti-violence centre in Port Elizabeth. These outfits had offices and vehicles ostensibly supported by the private sector.

574 The Commission received evidence that, from the early 1980s to the early 1990s, Reverend Ebenezer Mzwandile Maqina was working with the Security Branch and had links to the SADF, and was the chief individual through whom the security forces sought to create dissension and an anti-UDF power base. Maqina consistently denied any such links. He told the Commission that his ideological sympathies lay with Africanism and Black Consciousness. He further claimed that his actions were aimed at trying to control the situation.

575 Commission statements link Maqina to several violations. Commission research indicated that Maqina was recruited by the Security Branch in the early 1980s. A national intelligence document links him to self-confessed ANC spy and Security Branch source Pat Hlongwane and a Colonel van Rooyen as early as 1981. Sources indicate that Billy Strydom of the Port Elizabeth Security Branch was Maqina's handler during 1986. This is further confirmed by a report on Maqina written by Dr Johan van der Westhuizen (Maqina is referred to as M and Henry interchangeably, and SB refers to Security Branch).

*M on occasion requested me to organize a firearm. ... It may be that the SB provided him with a firearm. (Billy Strydom – security police handler). M was aware of the fact that Billy and myself knew each other and he, on one night, requested me to convey a message to Billy because he was not able to reach him. ... If you would like to find out, contact Billy Strydom and ask him about M. He is supposed to know what is going on with Henry with regard to a change in the front. M. visibly had a reasonable position of trust with Billy.<sup>34</sup>*

*The SAP (SB) has been informed. Lt Billy Strydom, and the attitude is 100 per cent positive in favor of co-operation. Will provide information on demand. They will also organize a firearm upon Henry's request – a telephone for the house will also be expedited.*

576 Colonel Hermanus du Plessis of the Security Branch attempted to pass Maqina on to Colonel Lourens du Plessis in Military Intelligence (MI) during 1986 when he became an "embarrassment" after being caught by the CID with weapons in

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<sup>34</sup> Document entitled Projek M, written by Johan van der Westhuizen, no date.

his vehicle. According to Colonel Lourens du Plessis, "the problem was that CID was not fully in the picture".

577 During 1986, Maqina's organisations were logistically supported by MI. This was done through front companies and organisations run by Dr Johan van der Westhuizen, Dr Ben Conradie and others. An organisation was established known as Action for Peace and Prosperity (APP)/*Aksie Voorspoed*, which was funded by MI. Money and goods from MI were channeled through them to Maqina.

578 In documents made available to the Commission, numerous references are made of ongoing financial support for Maqina's various initiatives. Eduguide official Ben Conradie has made public specific details of thousands of rands, food and equipment given to Maqina. He stated:

*One of the projects that I took over from Dr JL van der Westhuizen was known as 'Project Henry' and it was regarded as top secret that a Commandant from Eastern Province Command [SADF] was also involved in this ... I was introduced to Rev Maqina by Dr JL van der Westhuizen, who had close contact with Brigadier Joffel van der Westhuizen ... I had to constantly keep in the minds of my target group, inter alia groups identified by Rev Maqina, that the communists such as the UDF and ANC were enemies of the state and that they must be eliminated.*

579 Conradie recalls that it was hoped that Maqina could become the 'Buthelezi' of the region.. "These projects involved the founding and building of 'resistance movements' in the black areas of eastern Cape towns so that 'we' could get to Cradock, the 'focus of the revolution'. The aim was to consolidate all Xhosas under one community leader."

580 Maqina was also provided with office space and a vehicle. A logo was designed for the *AmaAfrika* through Ad Ed. Former mayor Thamsanqa Linda was also given a vehicle. Louis Pasques proposed financial support totalling R126 000 to Save the Child, Black Crisis Centre and Maqina's 'youth brigades' [probably AZANYU], all Maqina's initiatives. Food parcels ("food as bait"<sup>35</sup>) were organised by the SADF for Maqina to distribute to Port Elizabeth residents to garner political support for himself. Anti-UDF pamphlets were arranged and printed for Maqina by the SADF, mainly for distribution in Uitenhage, the heart of the conflict from 1987.

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<sup>35</sup> Dr JL van der Westhuizen, *Memo: Eastern Cape – AdEd*, early 1987.

581 During 1986 Maqina had contact with the conservative *witdoeke* in Cape Town. Dr JL van der Westhuizen notes that "the longest discussion I have had with M, was with regard to the '*witdoeke*' and his visit to Cape Town. LJP [Pasques] is in possession of the tape recording."

582 A document written in the first few days of June 1986 states that 'Henry' had asked for funds for a "symposium in Cape Town ... probably amongst the moderates in Crossroads". This was an obvious reference to the *witdoeke*, who had already embarked on their first attack in May and were preparing for the second attack in June 1986.

### ***STRATCOM Fomentation***

583 At a special meeting in Port Elizabeth on 8 May 1985, Major General Dirk Genis from SAP HQ in Pretoria stated that "the conflict between the UDF and AZAPO should be exploited as soon as possible. ComCom (Communications Committee) is busy with planning in this regard."<sup>36</sup>

584 A telex directive from the STRATCOM branch of the SSC suggested a number of themes for use in actions such as covert pamphlets. The directive was sent out by the Secretariat of the SSC to all regional JMCs on 20 December 1985. The themes/suggestions sought to enhance the differences between the UDF and AZAPO.

585 Dr van der Westhuizen believed that the security police were actively promoting the link between Maqina and AZAPO. "Henry, through public opinion, is still connected to AZAPO and I am of the opinion that this is being fanned by the SB. I have already discussed this with them, but ... cannot interfere with the line function."

586 The security forces' appreciation of the role that AZAPO could play is noted in the following recommendation by Brigadier Ferdi van Wyk regarding appropriate language to use concerning AZAPO: "In the current situation it will be difficult to refer to AZAPO as a gang of murderers and agitators due to the fact that in many instances the UDF is being neutralized by AZAPO."<sup>37</sup>

**THE COMMISSION FINDS THAT, DURING THE PERIOD 1985 TO 1990, MWANDILE EBENEZER MAQINA WAS INVOLVED IN THE FORMATION AND SUPPORT OF VIGILANTE GROUPS AND**

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<sup>36</sup> "Notule van spesiale GVS GOS (Port Elizabeth) vergadering gehou op 8 Mei 1985 te Hoofkwartier Kommandement Oostelike Provinsie", attended by *inter alia* local SAP, SARP, and security police. Major General Genis was sent to Cape Town around the time of the *witdoeke* attack in June 1986.

<sup>37</sup> 22/5/2/2 Volume 5, H Leér/GS2/328/3/1.

POLITICAL AND SOCIAL ORGANISATIONS IN AND AROUND PORT ELIZABETH, EASTERN CAPE, WHICH HAD AS THEIR AIM, INTER ALIA, THE PERPETRATION OF VIOLENCE AGAINST MEMBERS AND SUPPORTERS OF THE UDF.

MAQINA INCITED MEMBERS OF THE AFORESAID ORGANISATIONS AND GROUPS TO ACT VIOLENTLY AGAINST MEMBERS AND SUPPORTERS OF THE UDF.

MAQINA COLLUSED WITH MEMBERS OF THE SAP AND SADF IN ORDER TO FURTHER THE AIMS REFERRED TO.

AS A RESULT OF MAQINA'S ACTIONS, SUBSTANTIAL VIOLENT POLITICAL CONFLICT OCCURRED IN THE PORT ELIZABETH REGION BETWEEN 1985 AND 1990, AS A RESULT OF WHICH AN UNKNOWN NUMBER OF PEOPLE WERE INJURED AND/OR KILLED.

THE FOLLOWING STATE BODIES OR ORGANISATIONS WERE CLOSELY ASSOCIATED WITH MAQINA DURING THE PERIOD REFERRED TO ABOVE, IDENTIFIED THEMSELVES WITH THE AIMS OF MAQINA AND OF THE ORGANISATIONS AND GROUPS ESTABLISHED AND/OR SUPPORTED BY HIM AS SET OUT ABOVE, FACILITATED THE ACHIEVEMENT OF THOSE AIMS BY PROVIDING MAQINA WITH ASSISTANCE AND SUPPORT, AND DELIBERATELY FAILED TO ENSURE THAT THE APPROPRIATE ACTION AGAINST MAQINA WAS TAKEN BY THE SAP: THE SAP, THE SECURITY BRANCH OF THE SAP, THE PORT ELIZABETH JOINT MANAGEMENT CENTRE, EASTERN PROVINCE COMMAND (SADF), IN PARTICULAR ITS COMOPS DIVISION, AND ASSOCIATED FRONT COMPANIES, AND ARMY INTELLIGENCE (GS2) STRUCTURES UNDER BRIGADIER FJ 'FERDI' VAN WYK AND OTHERS.

### ***Witdoeke in the Western Cape***

587 The attacks launched by *witdoeke* in the western Cape resulted in the deaths of over sixty people and the destruction of the homes of over 60 000 people in May and June 1986. The Commission uncovered a trail of covert official endorsement of the *witdoeke* (see Volume Three). The subsequent court case, too, points to a sustained and expensive cover-up of these acts.

588 In summary, documented evidence indicates that official approval of the *witdoeke* began in January 1986. At a JMC management meeting on 10 January 1986, following a serious outbreak of violence over the New Year period during which the 'fathers'<sup>38</sup> attacked the comrades, JMC chairperson Brigadier AK de Jager of WP (Western Province) Command stated that the actions of the 'old guard' deserved support, though this should occur in a covert manner.<sup>39</sup> The minutes were sent to the Secretariat of the SSC.

589 On 25 March 1986, guidelines for managing unrest were sent out to security forces from General Wandrag's office. One of these guidelines specified contra-mobilisation. The guidelines were discussed at a sub-JMC meeting in the western

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<sup>38</sup> The terms '*witdoeke*', 'fathers' and 'old guard' are used interchangeably.

<sup>39</sup> Notule 1/86, File 22/8/4/3/13, State Archives.

Cape the same day and it was noted that "SADF WP Command is already working in this direction to get the 'fathers' to resist the comrades".<sup>40</sup>

590 During March 1986, several JMCs nationwide were asked by the chairperson of the SSC to draw up plans to deal with their particular 'trouble spots'. The final plan for the WP JMC included a section stating that the goal was "to remove the influence of the Comrades and other activists on the community", and the tasks were "to support well disposed moderate blacks". The actions specified in this regard were the "covert organising of adult law-abiding black men (fathers) to go against the Comrades in their terror campaign against the residents of black areas".<sup>41</sup>

591 This JMC plan was presented to the SSC meeting of 14 April 1986. Present in the meeting were General Magnus Malan (Minister of Defence); Adriaan Vlok and Mr Roelf Meyer, all of whom later issued section 66 notices blocking access to evidence during the subsequent court case. The meeting was also attended by NIS director general Niel Barnard and the police commissioner, General PJ Coetzee.

592 Chief *witdoek* leader Sam Ndima testified to the Commission that he met twice with "men from Pretoria" who, in his understanding, gave permission for the *witdoeke* to take action. Further, the Commission obtained information that, immediately after the conflict, an official of the Administration Board attended a meeting with members of the security forces – including a Brigadier – at which security force support for the *witdoeke* was confirmed.

593 On the morning of the attack on KTC squatter camp, the JMC arranged a flight on an SADF aircraft for several leading *witdoeke* and two Development Board personnel to consult chief *witdoek* leader Johnson Ngxobongwana, who had been sent to the Ciskei in March 1986. The details of this flight request were sent to the SSC.<sup>42</sup>

594 During the course of the first day of the attack on KTC (9 June), a signal message was sent from the WP JMC by the secretary of the WP JMC to the SSC in Pretoria requesting a sum of R3 000 for buy cattle for a victory feast by the *witdoeke*.<sup>43</sup>

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40 Memorandum with Minutes of Sub GBS Veikom, 1986-03-25, from SAP file C7/6/7/30.

41 Minutes 5/86, File No. 22/2/5/2, Pretoria State Archives.

42 Top Secret fax from WP Command to 5 Air Command and the SSSC, K53/848/JUN86, 061330B, File 22/8/4/1/1, State Archives.

43 WPGBS/888/9 JUN 86, *Ontloonting Wegblyaksies* 16 Jun, File 22/8/4/1/1, State Archives.

THE COMMISSION FINDS THAT THE ORIGINS OF THE CONFLICT LAY IN HISTORICAL RIVALRIES AND POLITICAL DIFFERENCES BETWEEN DIFFERENT GROUPS AND AN INCREASING TENDENCY TO RESOLVE SUCH DIFFERENCES BY VIOLENT MEANS. HOWEVER, THESE CONFLICTS WOULD NOT HAVE RESULTED IN THE SCALE OF VIOLENCE AND DESTRUCTION WITHOUT THE PERMISSION, FACILITATION AND ENDORSEMENT OF THE SECURITY FORCES.

THE COMMISSION FINDS THAT, DURING THE PERIOD JANUARY 1986 TO JUNE 1986, THE STATE – IN THE FORM OF THE SSC AND ITS COMPONENT SECURITY STRUCTURES INCLUDING THE NIS, THE JOINT MANAGEMENT CENTRE, THE WESTERN CAPE REGIONAL COMMAND OF THE SAP, THE WESTERN CAPE COMMAND OF THE SADF AND THE WESTERN CAPE DEVELOPMENT BOARD – COVERTLY CONSPIRED TO ENDORSE AND PROMOTE THE ACTIVITIES OF INDIVIDUALS FROM THE CROSSROADS INFORMAL SETTLEMENT, NAMELY MR JOHNSON NGXOBONGWANA, MR SAM NDIMA AND MR PRINCE GOBINGCA (REFERRED TO HEREINAFTER AS THE *WITDOEK* LEADERS).

THE *WITDOEK* LEADERS SOUGHT TO COUNTER THE ACTIVITIES AND INFLUENCE OF THE SOCIAL AND POLITICAL GROUPINGS IN THE CROSSROADS/KTC AREA WHICH WERE SUPPORTIVE OF THE UDF; TO ACHIEVE OVERALL LEADERSHIP POSITIONS IN THE CROSSROADS/KTC AREA, AND TO TAKE VIOLENT ACTION AGAINST THOSE PERSONS WHO WERE MEMBERS AND SUPPORTERS OF THE GROUPINGS REFERRED TO ABOVE IN ORDER TO ACHIEVE THEIR OBJECTIVES.

FROM 17 TO 21 MAY AND FROM 9 TO 11 JUNE 1986, PERSONS WHO SUPPORTED THE *WITDOEK* LEADERS PARTICIPATED IN A PROLONGED AND VIOLENT ATTACK ON RESIDENTS OF THE CROSSROADS SATELLITE AND KTC INFORMAL SETTLEMENTS, DURING THE COURSE OF WHICH OVER SIXTY PERSONS WERE KILLED AND OVER 10 000 HOUSES WERE DESTROYED.

THE COMMISSION FINDS THAT STRUCTURES OF THE SSC AND THE SECURITY FORCES IDENTIFIED WITH THE AIMS OF THE *WITDOEK* LEADERS AS SET OUT ABOVE; ENDORSED AND PROMOTED THE *WITDOEK* LEADERS IN THEIR ATTEMPTS TO ACHIEVE SUCH AIMS, AND FAILED TO TAKE APPROPRIATE STEPS TO ENSURE THAT THE VIOLENT ACTION REFERRED TO ABOVE WAS AVERTED OR PREVENTED.

THE COMMISSION FINDS THAT THE DEATHS OF THE OVER SIXTY PEOPLE AND THE SEVERE ILL TREATMENT SUFFERED BY THOSE PERSONS WHOSE HOUSES WERE DESTROYED IN THE PERIOD SPECIFIED ABOVE, WERE GROSS HUMAN RIGHTS VIOLATIONS FOR WHICH, *INTER ALIA*, THE FOLLOWING STATE BODIES, STATE INSTITUTIONS OR INFORMAL GROUPINGS ARE HELD ACCOUNTABLE: THE SSC; THE WESTERN PROVINCE JOINT MANAGEMENT CENTRE ; THE SADF'S WESTERN PROVINCE COMMAND COMMANDED BY BRIGADIER AK DE JAGER; THE SAP, IN PARTICULAR THE RIOT UNIT; THE SECURITY BRANCH IN THE WESTERN CAPE, HEADED BY BRIGADIER SJ STRYDOM; THE NIS; THE WESTERN CAPE DEVELOPMENT BOARD, AND *WITDOEK* LEADERS MR JOHNSON NGXOBONGWANA, MR SAM NDIMA AND MR PRINCE GOBINGCA.

### ***The Eagles in the Orange Free State***

595 The Eagles began as a black youth project of the Department of Education and Training in conjunction with administration boards and community councillors in Orange Free State towns in the early 1980s. By the second half of the 1980s, the Eagles had established a significant presence in almost every Orange Free State town.

596 After the dissolution of the Administration Boards in 1985, an MI front company was established to sustain the Eagles, who were then registered as a private company. During 1986 they were listed as part of the contra-mobilisation projects falling under *Project Ancor*. The Kahn Committee reports identify the Eagles Clubs as *Project Napper*, a special secret project, described as being active in the OFS, north and west Cape, Vaal Triangle and southern Transvaal, and as “another valuable source of information on violence in black townships”.<sup>44</sup> By the time of its ‘termination’ by the Kahn Committee in September 1991, the project had an annual budget of over R2 million and was due to continue independently on a reduced scale. At that stage the Eagles were claiming a membership of 600 000, with fifty clubs around the country involving over eighty members of staff. In reality they never managed to establish a strong base outside the Orange Free State.

597 The Eagles are frequently referred to in SSC documentation as a model of contra-mobilisation. Former State President FW de Klerk stated that none of the projects exposed in 1991 were involved in the gross violation of human rights. However, there are several known violations linked to the Eagles. The Eagles came into conflict with UDF youth organisations, SAYCO in particular, and acted against UDF campaigns. They were involved in repressive activities, such as pointing out activists, launching arson and petrol bomb attacks on activists’ homes (including that of Ms Winnie Mandela), and disrupting political meetings.

598 Amnesty applicant Nelson Mphithizeli Ngo [AM2422/96] states directly that a number of vigilante groups, including those of criminal origin, were in close relationship with the Security Branch in the Orange Free State. He identifies the Eagles in this regard, stating that the Security Branch recruited standard ten pupils from Matshidiso High school and Brandfort and sent them to the Rodeval SADF base for ‘indoctrination’ courses:

*The main aim of the SADF Intelligen[ce] services in conducting such courses in schools was to teach them tactics and strategies of suppressing student bodies like COSAS and SRCs at school and to replace them with the prefect system. Some of the teachers who were in favour of the prefect system were recruited by Security Branch members to strengthen the structure of the Eagles club at school and were also given courses by the SADF members in Rodeval.*

599 Active members of student bodies were also targeted and victimised by the Eagles club, with the co-operation of the recruited teachers. Most members of the Eagles club were armed and protected by the security police when engaged in disrupting meetings in schools. Registered members of the Eagles club working

<sup>44</sup> Kahn Committee reports.

as informers to the Security Branch received a monthly payment from the security police HQ in Bloemfontein. Eagles members themselves were targets of violence by UDF or ANC-aligned people.

THE COMMISSION FINDS THAT THE EAGLES YOUTH CLUBS WERE DIRECTLY CREATED AND SUSTAINED BY THE STATE AND ITS SECURITY FORCES. WHILE THE ESTABLISHMENT OF A CONSERVATIVE YOUTH GROUP WAS PERHAPS A LEGITIMATE, ALBEIT COVERT, ACTIVITY, THE COMMISSION FINDS THAT THE EAGLES WERE GIVEN FREE REIN AND WERE ENCOURAGED AT TIMES TO TAKE VIOLENT ACTION AGAINST MEMBERS AND SUPPORTERS OF THE LIBERATION MOVEMENTS AND THEIR PROPERTY. FURTHER, THE COMMISSION FINDS THAT THE SECURITY BRANCH MADE USE OF THESE ANTI-UDF YOUTH TO TAKE ACTION AGAINST THE UDF. THE COMMISSION FINDS THAT MEMBERS OF THE EAGLES YOUTH CLUBS WERE THEMSELVES SUBJECTED TO VIOLENT ATTACKS IN EFFORTS BY UDF ALIGNED GROUPINGS.

#### ***Other vigilante groupings: The Phakathis and the A-Team***

- 600 The Phakathi vigilante group emerged in the wake of the student boycott and street resistance that began in Thabong, Orange Free State, from late 1984. They engaged mainly in severe floggings with sjamboks but they also shot and killed several people in their efforts to crush protest activities. At least seven councillors and the mayor were involved in the assaults; numerous unemployed people were also drawn in. The Commission located an Orange Free State JMC report for the period March to May 1985 sent to the SSC, which states that "resistance against agitators is in a covert manner encouraged and allowed."<sup>45</sup>
- 601 The Chesterville Natal A-Team, active between 1983 and 1990, was a pro-Inkatha semi-criminal grouping that engaged in violent attacks on UDF areas and supporters (see Volume Three).
- 602 The amnesty application and testimony of Mr Frank Sandy Bennetts [AM4059/96] describes the close working relationship between the different branches of the SAP, particularly the Riot Unit and the Security Branch, and the A-Team. He stated that protection and patrols, as well as resources such as petrol, were offered to the A-Team. Members of the A-team were used as informers and for identification purposes.
- 603 Bennetts told the Commission of his belief that the A-Team was a "handled" outfit. He alleged that it was started by a military intelligence agent employed by the Natal Provincial Administration as the township manager to oversee the administration of Chesterville. He describes seeing a particular MI officer in almost daily contact with members of the group.

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<sup>45</sup> Document dated 3 June 1985, file 22/3/2/47, Vol 4, State Archives.

## **Gangster Vigilantes**

604 The amnesty application of Mr Nelson Mphithizeli Ngo states that a number of criminal vigilante groups were used by the security police in the Orange Free State, including the Anti-comrades, the Eagles and the Three Million Gang. The Anti-comrades and the Eagles are explicitly referred to as 'dekmantel organisasies' (cover organisations) in an SSC document. In relation to the Anti-comrades, Ngo said:

*This gangster [grouping] was also formed by the Security Branch (SB) together with the head of the Local Authority council, who worked as a councillor in Brandfort, and criminals were recruited from Brandfort prison by a prison warden who also worked for this gangster [grouping] to join the Anti-comrades and was the main co-ordinator of these gangsters and the security police.*

*The main task assigned to this gangster [grouping] by members of the security police was that they must deal with members of political organisations such as the UDF and the Civic organisation in the community.*

605 He goes on to describe the murder of one Papie Steyn. Ngo's version is corroborated to some degree by other information gathered by the Commission.

606 Ngo also identifies the Three Million Gang as one of the gangster groupings used by the police to counter the liberation movements. He states:

*This gangster [grouping] operated on a part time basis in Brandfort and was called by Sergeant or the SB when ever there was a need to reinforce the prevailing structures of gangsters in Brandfort. Co-ordination meetings were held at Brandfort police station, where leaders of the gangsters met with members of the SB to receive attacking strategies from the SB, weapons, money and material sponsors like beers and tobacco.*

607 Conflict between the ANC and the Three Million Gang is described in the Orange Free State regional profile, Volume Three.

**THE COMMISSION FINDS THAT THIS POLICY OF CONTRA-MOBILISATION SOUGHT, BY COVERT MEANS, TO CREATE GROUPINGS OPPOSED TO THE LIBERATION MOVEMENTS AND TO MANIPULATE SOCIAL, ETHNIC AND OTHER DIVISIONS WITH THE INTENTION OF MOBILISING ONE GROUP AGAINST ANOTHER. IN ITS MOST EXTREME FORM, CONTRA-MOBILISATION LED TO VIOLENCE. THE POLICY ENTAILED:**

- COVERT FUNDING OF INITIATIVES TO PROMOTE 'MODERATE' PRO-GOVERNMENT BLACK ORGANISATIONS OR INDIVIDUALS THAT IN SOME INSTANCES WERE USED AS CHANNELS FOR

RESOURCES TO BE GIVEN TO VIGILANTES, INCLUDING THOSE DIRECTLY USED TO CRUSH ANTI-GOVERNMENT ACTIVITY, SUCH AS THE EAGLES.

- IDEOLOGICAL TRAINING, THE PROVISION OF LOGISTICAL SUPPORT (INCLUDING VEHICLES AND MONEY IN CERTAIN INSTANCES) OR OTHER FORMS OF ENDORSEMENT OF VIGILANTES, PARTICULARLY REV MWANDILE MAQINA OF AMAAFRIKA IN THE EASTERN CAPE, THE '*WITDOEKE*' IN THE WESTERN CAPE AND THE A-TEAM IN NATAL.
- IN THE CASE OF INKATHA AND THE BLACK CATS, MILITARY TRAINING AND WEAPONRY, THE PROVISION OF WHICH RESULTED IN AN ESCALATION OF CONFLICTS AND ENORMOUS LOSS OF LIFE, INJURY AND DESTRUCTION OF PROPERTY.
- THE INCORPORATION OF MEMBERS OF CRIMINAL NETWORKS INTO VIGILANTE GROUPS.
- STRATCOM OPERATIONS AND PROPAGANDA DELIBERATELY DESIGNED TO FOMENT DIVISIONS AND SOCIAL CLEAVAGES.

THE COMMISSION FINDS THAT, IN CERTAIN INSTANCES, SECURITY FORCES PLAYED A FACILITATING ROLE IN THE ACTUAL VIOLATIONS, AND THAT THE SYSTEMATIC FAILURE TO PROSECUTE INDIVIDUALS, ORGANISATIONS OR GROUPS WHO ATTACKED SUPPORTERS OF THE LIBERATION MOVEMENTS AND THEIR PROPERTY AMOUNTED TO AN ENDORSEMENT OF SUCH ACTIONS AND, IN SOME INSTANCES, A SUBVERSION OF JUSTICE.

## APPENDIX

# State Security Forces: Directory of Organisations and Structures

## ■ JOINT SECURITY STRUCTURES

### State Security Council and related structures

- 1 The State Security Council (SSC) was established by the Security Intelligence and State Security Act, No 64 of 1972. Its functions were "to advise the government with regard to ..the formulation of national policy and strategy in relation to ... security .. and the manner in which such policy or strategy shall be implemented ... [and] to combat any particular threat to the security ... [and] to determine intelligence priorities."
- 2 Prior to the effective functioning of the State Security Council and the National Security Management System, a number of structures and/or initiatives were put in place to develop security policy and to establish greater co-ordination between the various security and intelligence arms. These include the establishment of: a State Security Committee in 1963; an Intelligence Coordinating Committee in 1964; a State Security Advisory Council (SSAC) which replaced the old State Security Committee in 1966; the Bureau of State Security in 1969; the Potgieter Commission in 1969 whose report in 1971/2 led to the establishment of the State Security Council (SSC) in 1972; a Civil Service Commission, the 'Venter Commission' in April 1973 which reported in early 1975; a government symposium on security on 21 September 1976 which led to the establishment of the Van Dalsen Committee.
- 3 The latter two were central in formulating the need for a 'national security system' and proposed the establishment of a number of sub-structures: inter-departmental committees; regional and area committees to co-ordinate security actions; a national security staff function in the Office of the Prime Minister; a Working Committee and Secretariat to service the SSC. However, when PW Botha became Prime Minister in September 1978, little progress had been made with

the exception of the establishment of fifteen inter-departmental committees and in April 1978 of a Working Committee to support the SSC. Following Botha's accession to power, the eighteen standing cabinet committees were reduced to five to ensure better management. The five were: Constitutional, Economic, Social, Finance and National Security - or as it became known The State Security Council.

- 4 The following people formed the core of the SSC: Prime Minister (after 1983 State President); Ministers of Foreign Affairs, Defence, Law and Order, Justice; the Director General of NIS, the Chief of the SADF, the Commissioner of Police, and the Secretaries of Justice and Foreign Affairs. In addition, a number of ministers were co-opted for various periods of time. In the second half of the 1980s, virtually all ministers as well as the Deputy Ministers of Law and Order and Foreign Affairs were drawn into an extended SSC, whose meetings alternated with the 'core' SSC. Secretaries of the SSC were all Lt Generals of the SADF and were: AJ van Deventer (1978-1985), PW van der Westhuizen (1985 -1988) , Charles J Lloyd (1988-1990)
- 5 In the face of rising resistance and apparent inability of the security forces to contain it, the IDC for security was upgraded to a Joint Security Staff (JSS/GVS). The Deputy Minister of Law and Order was relieved of all duties in order to manage the JSS/GVS. Given that membership and functions now overlapped, the NCC was discontinued on 11 August 1986. Following the imposition of a second, this time nation-wide, State of Emergency in June 1986, civilian departments were drawn in and the JSS/GVS was further upgraded to the status of a National JMC (NJMC) in February 1987.
- 6 Further, in the early days of the emergency, a Ministers Committee (MINCOM) chaired by the State President and comprising eight ministers were charged with the overall function of managing the State of Emergency on the advice of a Committee of Senior Officials chaired by the chairperson of the JSS. These committees ceased to function later as the SSC and the WC themselves began to develop 'dual forms' of functioning.

### **The Co-ordinating Intelligence Committee (CIC/KIK)**

- 7 On 14 November 1980, PW Botha issued an instruction that intelligence structures should be rationalised and better co-ordinated. A Rationalisation Committee was set up that met from 14-19 January 1981, in a meeting now known as the

'Simonstown Beraad'. On 30 January, PW Botha approved the establishment of a National Intelligence Interpretation Branch (NIIB/TNV) as part of the SSSC as well as the Co-ordinating Intelligence Committee under the chairmanship of NIS. The NIIB officially came into being on 1 January 1982.

- 8 The Coordinating Intelligence Committee (CIC/KIK) consisted of representatives from all intelligence-gathering structures the Military Intelligence Division of the SADF, the Security Branch of the SAP, the National Intelligence Service and the intelligence component of Foreign Affairs. It was established in 1981 and had several sub-committees including counter-intelligence, technical and covert collection sub-committees. It was under the sub-committee for covert collection that a special counter-revolutionary information task team, TREWITS (Teen Rewolusionere Inligtings Taakspan), was established in late 1986.
- 9 The KIK was chaired by Dr LD Barnard, Director-General of NIS.

## ■ **SOUTH AFRICAN POLICE (SAP)**

- 10 The SAP was formed in 1913, the Special Branch (later called the Security Branch) in 1947 or 1948 and the Riot squad in 1975. In 1986 the South African Railway Police were incorporated into the SAP and special constables introduced.
- 11 The following people served as Ministers of Police/ Law and Order Commissioners during the Commission's mandate period: FC Erasmus; BJ Vorster (1961-68); SL (Lourens) Muller (1968-1974); JT Kruger 1974-79); Louis le Grange (1979-1986); Adriaan Vlok (1986-1991); HJ Kriel (1991-94).
- 12 The following people served as Commissioner of Police during the mandate period: Maj Gen Rademeyer (-1960); Lt Gen AJ du Plooy (1960-62); Lt Gen JM Keevy (1962-68); Gen JP Gous (1968 - 1971); GJ Joubert (1971-73); Gen TJ Gous (1973-1975); Gen GL Prinsloo (1975-78); MCW Geldenhuys (1978-1983); Gen PJ Coetze (1983-87); Gen H de Witt (1987-89); JV van der Merwe (1990-96). Generals du Plooy, Prinsloo, Geldenhuys, Coetze and Van der Merwe were all former Heads of the Security Branch or had Security Branch experience. Thus in virtually every significant period of unrest, a former security branch head has occupied the post of Commissioner of Police.

## The Security Branch

13 The Security Branch was created as a fully fledged structure in 1947 or 1948. It was organised in sections. These sections were subject to changes at various times. The following is based on a mid-1980s organogram.

- a Section A: information collection
- b Section B seems to have collected information on non-mainline groups such as the Detainees Parents Support Committee, SA Council on Sport, etc (by 1992 Section A dealt with 'Revolutionary/Radical' groups; while Section B dealt with 'Reactionary Groups');
- c Section C: an operative unit responsible for anti-terrorism activities.
- d Section D dealt with state property, border posts, airports, etc.
- e Section E dealt with detainees;
- f Section F covered inter-departmental committees, library, research (By 1992 E is earmarked legal advisers);
- g Section G was responsible for intelligence (G1), Strategic Communication (G2) and Counter-Espionage (G3). (By 1992 G was responsible for 'interdepartmental linkages' and included links/secondments to Venda, Bophutatswana, Swaziland);
- h Section H was Secret Funds (by 1992 Secret Funds fell under Group K and Group H had become Constitutional Services and connected into returning exiles and releases);
- i Section J connected to the SSSRC and the JMCs; by 1992 it had become the Trewits section;
- j Section K was the Inspectorate (by 1992 Special Account);
- k Section L was the database or information centre;
- l Section M was Namibia (by 1992 the Technical Division);
- m Section N was the Technical Division (by 1992 the Administrative section);
- n Section O was Training.

14 In 1991, the Special Branch merged with the Criminal Investigation Division into a structure known as Crime Combating and Investigation. The section previously known as the Security Branch was renamed the Crime Information Service (CIS). It is now called Internal Security. The change brought a change in the allocation of functions to the different sections, as reflected in the listing above.

15 Commanding officers of the Security Branch include: 1960s - Gen Hendrik van der Bergh, Brig PJ 'Tiny' Venter; 1970s - Brig PJ 'Tiny' Venter, Mike Geldenhuys; Lt-Genl CF Zietsman; 1980s - Brig Johan Coetzee; Maj Gen Frans Steenkamp; Maj-Genl S Schutte; Brig Johan van der Merwe; 1990s - Basie Smit.

### ***Section C1: Vlakplaas***

16 The unit which came to be known by the name of the farm was started in the late 1970s by Col JJ Viktor, then head of the C section, and Col Jan du Preez.

17 The purpose of Vlakplaas at this stage was ostensibly as a place to rehabilitate 'turned terrorists' or, as they were called, askaris. The askaris were eventually divided into units and supervised by white security police, and it was this change that transformed Vlakplaas into a counter-insurgency unit. The units responded to requests that were channelled to them via the head of Section C or via branch commanders.

18 In the mid to late 1980s similar units to Vlakplaas were established in Camperdown in Kwazulu Natal and in the Eastern Cape.

19 Heads of C section under which C1/Vlakplaas resided were Col JJ Viktor (later a Maj-Genl); Brig Willem Schoon; Maj-Genl Nick Janse Van Rensburg and Maj-Genl IJ Engelbrecht. Commanders of Vlakplaas were: Col JJ Viktor (founder of the unit); Capt Dirk Coetzee (1980-81); Capt Jan Carel Coetzee (1982); Lt Col Jack Cronje (1983-1985) - later a brigadier); Col Eugene de Kock (1985-1993)

### **The Riot Squad**

20 During the 1960s the SAP established Divisional Anti-Riot Units throughout South Africa.

21 Throughout the 1980s, the homeland police forces had also been establishing specialised, separate riot control agencies, with approximately 30 units established by 1993. The riot units in the homelands were usually less organised, less skilled, and even more brutal than those of the SAP. On occasion, when it appeared that homeland forces were unable to contain a particular incident, the SADF (not the SAP) were deployed to assist.

- 22 Forty Internal Stability Units, with over 7 000 members, were operating throughout South Africa by 1994. One of the largest of these, with 1 200 members, was 'Unit 19', the special national unit which was based in Pretoria for rapid deployment to unrest focal points anywhere in the country. The remaining units were spread across the country, but concentrated around flashpoints for unrest in the PWV, Natal, Western and Eastern Cape. An additional thirty-seven similar units had been established in the various homeland police forces.
- 23 For the pre-election transitional period, a special force, known as the National Peacekeeping Force, was created to assist with the maintenance of Public Order.
- 24 From the mid-1980s, Maj-Genl Albertus Wandrag, a senior Deputy Commissioner at SAP Headquarters was in charge of riot control.

## **■ BUREAU OF STATE SECURITY (BOSS)/ DEPARTMENT OF NATIONAL SECURITY (DONS) / NATIONAL INTELLIGENCE SERVICE**

- 25 BOSS was established in 1968 but its establishment was only legislated in 1969. Its primary purpose was to co-ordinate intelligence work as well as to create a foreign espionage capacity. The intention was to amalgamate personnel from the security branch, military intelligence and the Department of Foreign Affairs under the overall command of Genl Hendrik van den Bergh.
- 26 With the accession to power of PW Botha, BOSS's name was changed to the Department of National Security (DONS) with Alec van Wyk as caretaker head. In 1980, PW Botha appointed a twenty-seven year old academic, Lukas Daniel Barnard as Director -General. It was at this time that its name was changed to the National Intelligence Service(NIS). At the Simonstown Beraad in 1981 its powers were significantly curbed from 'super-spy' status to a more limited role.
- 27 NIS played a significant role in relation to the SSC, the Secretariat of the SSC (SSSC) and key intelligence sub-structures that formed part of the Secretariat, as well as Joint Management Committees around the country, until it withdrew from this system in 1987.
- 28 Towards the latter half of the 1980's, NIS played a pivotal role in negotiations and performed the role of 'secret messengers' between the SA government and the ANC. By 1988, they were seen to be 'running the negotiations'.

29 Around 1989, NIS moved from the Department of Justice to the Office of the State President and, with the sanction of President De Klerk, began to penetrate the security forces to investigate its suspicions of Third Force activity. Later it worked closely with the investigation into such activities run by Genl Pierre Steyn.

## ■ **SOUTH AFRICAN DEFENCE FORCE (SADF)**

30 The Union Defence Force (UDF) was established in 1912. In 1957, a new Defence Act was passed which changed its name to the South African Defence Force. At that stage the SADF consisted of three arms of service - the Army, Navy and the Air-Force. In 1979, a fourth arm, the South African Medical Service (SAMS), was added.

31 The following are some of the components of the SADF that were regarded as significant to the mandate of the Commission:

### **The Military Intelligence Division (MID)**

32 The Military Intelligence Division (MID) resided under one of the five staff components of the SADF (personnel, intelligence, operational, logistics, planning and finance). The staff division was run by the Chief of Staff Intelligence (CSI) who was directly responsible to the Chief of the SADF (CSADF).

33 In the pre-total strategy period, the MID was relatively small and said to have a staff of less than 100 in the mid-1970s. However, from the late 1970s it underwent significant expansion and its staff complement is said to have stood at an estimated few thousand by the latter 1980s. It had the capacity to recruit personnel from sectors outside the military, including the civilian as well as police and intelligence. With expansion, also went a process of re-organisation. A structural distinction was effected between strategic and tactical intelligence. The latter function was organised into parallel staff divisions within each Arm of Service of the SADF. These were:

- GS2 - Chief of Staff Army Intelligence - colloquially referred to in the intelligence world as 'Blennie';
- AS2 - Chief of Staff Air Force Intelligence;
- NS2 - Chief of Staff Naval Intelligence;
- MS2 - Chief of Staff Medical Intelligence.

34 Although the functions of these directorates were co-ordinated by CSI , some developed a degree of institutional autonomy, especially GS2 in regard to operations in Angola and Namibia, and internally after the decision to deploy the SADF in townships.

35 Responsibility for strategic intelligence was given to the MID which also underwent processes of expansion and re-organisation. By the mid-1980s, MID was organised into three major sub-divisions - military intelligence, counter-intelligence and intelligence operations - and several directorates, one of which was the Directorate of Covert Collection (DCC).

36 An Intelligence Staff Council was responsible for the co-ordination of policy and comprised: CSI (Chair); Chiefs of Staff Army, Air Force, Navy and Medical Intelligence; Chief Directors of Military Intelligence, Counter-Intelligence and Intelligence Operations and the Director of DCC.

37 The post of CSI became one of the most powerful with, under PW Botha, its incumbents being Lt-Gen. P. W. van der Westhuizen (1978-85), Vice-Admiral Dries Putter (1985-89), and Lt-Gen. R 'Witkop' Badenhorst (1989-91). Following Badenhorst, Lt Genl CJ 'Joffel' van der Westhuizen was CSI. Lt-Gen. PW van der Westhuizen, after his term as CSI, served as secretary of the SSC until well into 1988.

#### ***The Directorate of Covert Collection (DCC)***

38 While most intelligence is gathered through overt means, a small but significant part is collected covertly. Within the SADF, DCC was responsible for such covert collection.

39 In 1986 authorisation was given for the formation of a civilian front organisation to be funded out of the Special Defence account. The first DCC front was Pan-Afrik Industrial Investment Consultants CC (PAIIC CC). Registered on 7 November 1986, it functioned until 28 February 1993 and employed 49 personnel. Other fronts which were created included Africa Risk Analysis Consultants (ARAC), African Information Systems (AFRINFRO) (PTY) LTD and Longreach.

40 In the mid-1980s, the DCC was headed by a Director ( Brig. JP 'Tolletjie' Botha) who reported direct to the Chief of Staff Intelligence. He had below him five sections, namely, West Front (Namibia and Angola headed by Brig. Koos Louw); East Front (Mozambique and Swaziland, headed by Col. At Nel); International;

Terrorism or Tuis (the home front), later renamed Internal Sub-Theatre which was headed by Col. Col JGC 'Gerrie' Bornman, and Foreign Intelligence Services, basically a counter-intelligence group headed by a Brig. Van Rensburg. The Terrorism Section was responsible for collection in respect of the liberation movements externally, as well as internally during the 1980s. During this period as well, DCC field offices were established in each territorial command.

### ***The Directorate of Special Tasks (DST)***

- 41 The DST has its origins in the SADF's involvement with UNITA in the mid-1970s. Later, the SADF became involved with military groupings operating in other Southern African states and DST became the channel for assistance. DST was broadly divided into Western (DST1) and Eastern Fronts (DST2). Thus DST 1 was responsible for liaison with UNITA while DST 2 handled RENAMO, the Lesotho Liberation Army and assistance to Zimbabwean dissidents. In 1985, an internal dimension was added to the functions of the DST with Operations Marion (support for Inkatha) and Katzen (counter-insurgency operations in the Eastern Cape) being added to the portfolio of responsibilities of DST 2.
- 42 DST was a highly clandestine operation. Details of the command structure of DST in its early days are sketchy but it is known that then Col. (later Maj-Genl.) Marius Oelschig was Officer Commanding of DST's Field Office in Rundu from December 1978-82. According to material on DST supplied to the Commission, Brig Daan Hamman headed DST in 1982; he was replaced for six months in 1983 by a Brig. Botha who, in turn, was succeeded by Brig. C.J. 'Neels' Van Tonder who remained until 1986 when he was replaced by Brig. CJ 'Cor' van Niekerk.
- 43 Functionally, DST operated by project. In 1983 the arrangement was:
  - DST 1: OC in 1983 not known but probably Col. Oelschig. By 1985, however, the OC of this section was Brig. Thackwray.
  - *Operation Disa* (formerly Silwer) - aid to UNITA: Commander: Col. Oelschig
  - DST 2: OC Col. Cor. van Niekerk.
  - *Operation Drama* - aid to Zimbabwean dissidents; Commander: Col. Frayne
  - *Operation Latsa* (later Capsize) - aid to Lesotho Liberation Army: Commander: Col. May but replaced during year by Col Benade
  - *Operation Mila* (formerly Altar) - aid to RENAMO; Commander: Col. Cor. van Niekerk

- 44 By the mid-1980s, DST's functions as well as those of some other structures, such as the Directorate COMOPS, were centralised under the Directorate Intelligence Operations which was headed by former DST officer commanding, Brig CJ 'Neels' van Tonder.
- 45 In the SADF, strategic communication ('stratcom') initiatives were known as communication operations, or 'comops'. The responsibility for Comops was divided between CSI/MID and the Arms of Service, specifically the SA Army where it resided under Chief of Staff Army Intelligence (GS2). Within MID two directorates existed, namely Directorate Own Forces and Population and the Directorate of International Communication. Within the Army the following sections existed: Comops Population, Comops Enemy, Comops Own Forces and Media Liason.
- 46 Comops personnel were appointed at all levels of command, including the territorial commands. During the 1986/87 period a new sub-division of MID was established called Intelligence Operations and both COMOPS and DST resided here, headed by Brigadier 'Neels' van Tonder.
- 47 The SADF submission indicates that stratcom projects were suspended after 1992 except in respect of its own forces.

## **GOC Special Forces**

- 48 GOC Special Forces was directly responsible to the Chief of the SADF, bypassing normal channels of command. DST made extensive use of Special Forces in their destabilisation of Southern African countries, in particular in providing training and support to surrogate forces. All sensitive Special Forces operations were vetted by the Minister of Defence and in the case of particularly sensitive operations, by the State President.
- 49 From its inception and until the early 1990s, the GOCs Special Forces were Maj-Gen FW Loots (1974-82); Maj-Gen AJ Liebenberg (1982-85); Maj-Gen AJM Joubert (1985-89); Maj-Gen E Webb (1989-91).

## ***One Reconnaissance Regiment***

- 50 1RR was based in Durban and consisted of a training component and an operational wing which provided personnel for cross-border raids such as those

on Matola and Maseru. In the 1980s it was a predominantly black unit with white senior officers and with a strength of approximately 1 000. Officers commanding 1RR were Cmdt JG 'Jannie' Breytenbach (1972-75); Maj (T/Cmdt) JC Swart (1975-81); Col. E Olckers (1981-83); Col. A Bestbier (1983-88); Col. G Keulder (1988-).

### ***Two Reconnaissance Regiment***

51 2RR was a Citizen Force unit for ex-Recce members, available for emergency deployment on a Citizen Force basis. Its total strength was 2-3 000 but its operational strength only a few hundred. Between 1974-92, its OC was Maj. (later Col.) DS van der Spuy.

### ***Three Reconnaissance Regiment***

52 3RR was established in 1980 to absorb members of the Rhodesian Special Forces. Its name was later changed to Delta 40 and then Barnacle. It operated as the covert arm of Special Forces. It underwent another name change in 1986 with the formation of the CC. Its first commander was ex-Rhodesian Garth Barrett (1980-83).

### ***Four Reconnaissance Regiment***

53 4RR was located at Langebaan and its expertise focused on sea-borne skills. It was a relatively small (450-500) mainly white unit, and was involved in special sea-borne operations in Angola and Mozambique. Officers commanding 4RR were Cmdt. M Kinghorn (1978-82), Col. J Venter (1982-94) and Col. K Nel (1994-).

### ***Five Reconnaissance Regiment***

54 5RR was based outside Phalaborwa. It consisted of at least 1 000 members, mostly Mozambicans, and was organised into five field commandos (three operational; one intelligence and one logistical). Officers commanding 5RR were Maj. PJ (Joe) Verster (1975-81); Cmdt HM Blaauw (1981); Cmdt. HW Snyders (1981-3); Cmdt. AG 'Bertie' Sachse (1983-4); Col. JR Hills (1984-8); Col. CAJ Meerholz (1988-90); Col. AG 'Bertie' Sachse (1990-3); and Col. JW Engelbrecht (1993-).

## **South African Army**

55 Specialist units of the Army included 32 Battalion and the 44 Parachute Brigade.

### ***Battalion 32***

56 32 Battalion, often referred to as the 'Buffalo Battalion', was created in 1976 by Col Jan Breytenbach. It was largely a black battalion and contained many foreign mercenaries. Its operational strength was approximately 1 500. Officers commanding 32 Bn were Col JD 'Jannie' Breytenbach (1976-7); Col GJ Nel (1977-8); Col Deon Ferreira (1978-83); Col EG Viljoen (1984-8); and Col MB Delport (88-93).

### ***44 Parachute Brigade***

57 44 Parachute Brigade, modeled on the British SAS, contained both a National Service component (one battalion) and a Citizen Force component (two battalions). If the Citizen Force members had all been deployed its strength would have been in the region of 6 000. Recent officers commanding 44 Para Bde were Brig MJ Du Plessis (1978-9); Col. JD Breytenbach (1980-2); Col. FJ Bestbier (1982-5); Col. DJ Moore (1985-9); Col. McGill Alexander (1989-92); and Col. Les Rudman (1992-4).

# The Liberation Movements from 1960 to 1990

## ■ OVERVIEW OF VIOLATIONS

- 1 The Commission has analysed the human rights violations committed by the liberation and mass movements by grouping the violations in the following categories:
  - a Violations committed in the course of the armed struggle by armed combatants;
  - b Violations committed by liberation movements against their own members or against suspected spies or dissidents within their ranks, usually outside South Africa;
  - c Violations committed by supporters of the liberation movements in the course of 'mass struggle', primarily during the 1980s;
  - d Violations committed by members of the liberation movements after their legalisation on 2 February 1990.
- 2 The overall findings in respect of the liberation movements follow. Other findings are located in the text.

IN REVIEWING THE ACTIVITIES OF THE AFRICAN NATIONAL CONGRESS (ANC) AND THE PAN AFRICANIST CONGRESS (PAC), THE COMMISSION ENDORSED THE POSITION IN INTERNATIONAL LAW THAT THE POLICY OF APARTHEID WAS A CRIME AGAINST HUMANITY AND THAT BOTH THE ANC AND PAC WERE INTERNATIONALLY RECOGNISED LIBERATION MOVEMENTS CONDUCTING LEGITIMATE STRUGGLES AGAINST THE FORMER SOUTH AFRICAN GOVERNMENT AND ITS POLICY OF APARTHEID.

NONETHELESS, THE COMMISSION DREW A DISTINCTION BETWEEN A 'JUST WAR' AND 'JUST MEANS' AND HAS FOUND THAT, IN TERMS OF INTERNATIONAL CONVENTIONS, BOTH THE ANC, ITS ORGANS THE NATIONAL EXECUTIVE COUNCIL (NEC), THE NATIONAL WORKING COMMITTEE (NWC), THE REVOLUTIONARY COUNCIL (RC), THE SECRETARIAT AND ITS ARMED WING UMKHONTO WESIZWE (MK), AND THE PAC AND ITS ARMED FORMATIONS POQO AND THE AZANIAN PEOPLE'S LIBERATION ARMY (APLA), COMMITTED GROSS VIOLATIONS OF HUMAN RIGHTS IN THE COURSE OF THEIR POLITICAL ACTIVITIES AND ARMED STRUGGLES, ACTS FOR WHICH THEY ARE MORALLY AND POLITICALLY ACCOUNTABLE.

## ■ THE AFRICAN NATIONAL CONGRESS

### Preface

- 3 The Commission recognises that it is able to make some very detailed observations and findings about the abuse of human rights in the military camps of the ANC owing to the fact that the ANC had earlier initiated a number of its own enquiries, namely the Stuart report, an investigation into the death of Thami Zulu (both internal ANC commissions) and the Skweyiya and Motsuenyane Commissions. The ANC also made extremely detailed submissions to the Commission.
- 4 The Motsuenyane enquiry, in particular, was a public and independent enquiry to which anyone could bring evidence about such abuses, and a significant number of individuals did so. This enquiry is, in fact, recognised in some of the international literature as a truth commission in its own right.
- 5 The Commission believes that this was an unprecedented step for a liberation movement to take, and that the ANC should be commended for setting a high standard in this regard. It regrets that it did not receive the same level of co-operation from other structures and organisations in the compiling of this report. Much of the detail contained in the section that follows comes from the ANC's own enquiries and submissions to the Commission.
- 6 Following the banning of the ANC in 1960, the organisation established an armed wing, Umkhonto weSizwe ('spear of the nation'), popularly known as MK. MK engaged in acts of war from 1961 to 1990 when, following its unbanning on 2 February, negotiations commenced. The armed struggle was suspended in August 1990. The Commission has examined the gross violations of human rights allegedly perpetrated by members of the ANC and MK. Particular attention has been paid to violations committed by MK in planned and unplanned offensive operations; violations against perceived spies, informers and 'collaborators' within its own ranks; violations against other parties in the course of the 'mass struggle' of the 1980s, and violations against other parties after the legalisation of the ANC in February 1990.
- 7 In the course of the armed struggle, a number of military actions took place which resulted in the death or injury of civilians, and where gross violations of human rights can be said to have been committed, despite ANC policy to avoid unnecessary loss of life. Police statistics indicate that, in the period 1976 to

1986, approximately 130 people were killed by ‘terrorists’. Of these, about thirty were members of various security forces and one hundred were civilians. Of the civilians, forty were white and sixty black<sup>1</sup>.

- 8 The ANC told the Commission that civilian casualties were attributable to poor reconnaissance, faulty intelligence, faulty equipment, infiltration, misinterpretation of policy, anger on the part of individual members of MK and the ‘blurring of the lines’ between military and civilian targets in the mid-1980s.

## **Unplanned military operations**

- 9 The Commission received submissions from victims of ‘unplanned’ military operations performed by MK operatives, notably from victims of the January 1980 Silverton Bank Siege in Pretoria. Such operations resulted in civilian casualties. The July 1977 Goch Street shooting in Johannesburg is also documented here for the sake of completeness of the historical record. The Commission received no victim submissions in this case.
- 10 According to the ANC’s first submission, in the Silverton Bank Siege, which took place in Pretoria on 25 January 1980, members of an MK unit, Mr Stephen Mafoko, Mr Humphrey Makhubo and Mr Wilfred Madela [JB03888/01GTSOW] were, according to the ANC, confronted by the police while “on their way to carry out a mission”. They entered a bank where they held customers hostage. This was followed by a shoot-out with the police in which two civilians and the three MK operatives were killed. In its submission to the Commission the ANC said that the incident took place “on the spur of the moment” and was the only time that its operatives took hostages in the course of MK actions.
- 11 The Commission received submissions in respect of the deaths of Ms Cynthia Valeria Anderson [JB04717/02PS] and Ms Anna Magrieta De Klerk [JB00697/02PS], and from Mr Salmon Knouwds [JB00118/02PS], Ms Annamaria Landman [JB00685/02PS], Ms Janetta van Wyk [JB00698/02PS], Ms Magrietha Christie and Mr Daniel Christie [JB00699/02PS] who were injured in the Silverton Bank Siege.
- 12 In July 1977, Mr Solomon Mahlangu [JB00182/02PS] and Mr Monty Motaung killed two civilians in a shoot-out with the police in a warehouse in Goch Street, Johannesburg. The two MK operatives had taken refuge in the warehouse when the police confronted them. They were captured and later charged. Mahlangu was

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<sup>1</sup> Figures drawn from an SAP document headed *‘Opsomming van Terreurdade: 1 January 1976 – 31 December 1986*

hanged on 6 April 1979 for his part in the incident. Motaung was assaulted so severely by police that he suffered brain damage and was unable to stand trial.

IN THE COURSE OF THE ARMED STRUGGLE THERE WERE INSTANCES WHERE MEMBERS OF MK CONDUCTED UNPLANNED MILITARY OPERATIONS USING THEIR OWN DISCRETION AND WITHOUT ADEQUATE CONTROL AND SUPERVISION AT AN OPERATIONAL LEVEL, DETERMINING TARGETS FOR ATTACK OUTSIDE THE OFFICIAL POLICY GUIDELINES.

WHILE RECOGNISING THAT SUCH OPERATIONS WERE FREQUENTLY UNDERTAKEN IN RETALIATION FOR RAIDS BY THE FORMER SOUTH AFRICAN GOVERNMENT INTO NEIGHBOURING COUNTRIES, THE COMMISSION FINDS THAT SUCH UNPLANNED OPERATIONS OFTEN RESULTED IN THE PERPETRATION OF GROSS VIOLATIONS OF HUMAN RIGHTS IN THAT THEY CAUSED CIVILIAN LOSS OF LIFE AND INJURIES. THE 1977 GOCH STREET SHOOT-OUT AND THE 1980 SILVERTON BANK SIEGE ARE REGARDED BY THE COMMISSION IN THIS LIGHT.

## Planned military operations

### *Bombings*

- 13 For the purposes of this report, planned military operations include the sabotage campaigns mounted by the ANC/MK, including urban bombing campaigns and rural land mine campaigns. Attacks on individuals perceived as 'the enemy', as 'collaborators' with the state, as informers and agents of the security forces, as well as attacks on security forces personnel are also documented here. They are not, however, strictly classified as 'planned' military operations, even in cases where they conformed to the general practice, if not the general policy, of the ANC.
- 14 In the Pretoria Church Street bomb explosion on 20 May 1983, the MK Special Operations Unit planted a car bomb outside the building housing the administrative headquarters of the South African Air Force (SAAF). The explosion killed twenty-one people – eleven of whom were employees of the SAAF and two MK operatives – and injured 217. The Commission received statements in respect of eight people who were killed and ten who were injured in the blast. Additional names of victims were mentioned in the amnesty applications of MK operatives Mr Aboobaker Ismail [AM7109/97], Ms Helene Pastoors [AM7289/97] and Mr Johannes Mnisi [AM7096/97].
- 15 Those killed were Mr Sebastian Stephanus Walters [JB00696/02PS], Ms Adriana Johanna Christiana Meyer [JB00689/02PS], Mr Izak Jacobus Henning [JB00963/02PS], Mr Jacob Johannes Ras [JB00690/02PS], Mr Lengoi Moses Maimela [JB05179/02NPPTB], Mr Thomas Jonas Mohlahlo [JB05216/02NPPTB], Mr Mogale Judas Maimela [JB05179/02NPPTB] and Mr Sekgoetsi Jim Magatsela [JB05179/02NPPTB].

02NPPTB]. The injured were Mr Gerhardus Ackermann [CT05000/GAU], Mr Zirkie Bernardus Jansen [CT03085/GAU], Ms Marina Louis Geldenhuys [JB00163/01ER], Ms Paula Botha [JB00177/02PS], Mr James Marren Simpson [JB00179/02PS], Ms Hester Catharina Coetzee [JB00181/02PS], Mr Neville Clarence [JB00702/02PS], Mr Petrus Frederik Botha [JB00705/02PS], Ms Annamarie Trieggaardt de Villiers [JB00694/01GTSOW], and Mr Christiaan Barnardo [JB00692/99OVE].

16 The ANC justified this bombing as having been aimed at a security force target and consistent with its policy of intensifying the struggle by attacking 'the enemy' and avoiding civilian casualties if possible. At the 'recall hearing' of political parties, the ANC told the Commission that:

*Had that bomb gone off at 16h30 ... the overwhelming majority [of victims] would have been from [the Air Force]. But it went off prematurely ... in war, in conflict, of course, one can't always be 100 per cent efficient, effective in an operation ... But we are consistent here in terms of our principle and approach.*

17 Amnesty applicant Aboobaker Ismail told the Commission that:

*There were large numbers of military personnel at the target at the time. We accepted that civilian casualties would result, but we felt that we had to strike at military personnel ... It was not callous. It was not a school like the apartheid forces attacked when they were attacking school children. They were military people there ... One regrets the loss of innocent lives of civilians, but ... we did not think it was terrorism. In fact, the ANC in all its statements lauded that operation...*

18 Mr Johannes Mnisi's role was to test the devices. He was also part of the contract, together with Mr Freddie Shongwe and Mr Izekiel Masango, the MK operatives who died in the explosion. Ms Helene Pastoors delivered the car with the explosives to the two operatives.<sup>2</sup>

19 In the Amanzimtoti bombing on 23 December 1985, MK cadre Andrew Sibusiso Zondo detonated an explosive in a rubbish bin at the Sanlam Centre. Five people died in the blast and over forty were injured. The Commission received statements in respect of four deaths and six injuries arising from the incident.

<sup>2</sup> At the time of reporting, the Commission had not made a decision on these amnesty applications.

20 Zondo was reacting in anger to the December 1985 Maseru Raid by the South African Defence Force (SADF). He was aware that civilians would be killed and deliberately acted against MK policy. In its first submission to the Commission, the ANC said that Zondo's act was not in line with ANC policy, but was understandable as a response to the SADF raid into Lesotho.

21 Zondo was convicted and executed for this act. He apologised to the families of those who died before the death sentence was passed. Two other MK members were allegedly implicated in the blast, one of whom was Mr Stanley Bhila [KZN/NJ/004/DN]. Both were killed by security police. Applications for amnesty were received in this regard.

22 The Commission received the following submissions in respect of victims of the Amanzimtoti bombing: the deaths of Cornelius Francois Smit [JB00193/02PS], Ms Irma Bencini [JB05547/03WR], Ms Anna Petronella Shearer [KZN/NNN/522/DN] and Willem Arie van Wyk [JB04774/03VT]; injuries to Ms Isabella Magretha van Wyk [JB04774/03VT], Ms Anna Smit [JB00193/02PS], Ms Sara Susanna Hogan [JB01429/02PS], Ms Anna Christina Frederika Prinsloo [JB01428/02PS], Ms Valekile Letta Makhathini [KZN/NS/036/DN], and Ms Hluphekile Letia Nkabinde [JB00207/03VT].

23 On 14 June 1986, three people were killed and about sixty-nine injured in a car bomb explosion at Magoo's Bar on the Durban beachfront. The attack was carried out by an MK cell consisting of Mr Robert McBride, Ms Greta Apelgren (now known as Zahrah Narkedien) and Mr Matthew le Cordier. The latter turned state witness at the trial. Apelgren was acquitted and McBride was convicted and sentenced to death three times. McBride was released during the negotiations between political parties in the early 1990s.

24 The Commission received two submissions in respect of people who had been killed in the Magoo's Bar bombing and eleven in respect of the injured. Ms Helen Kearney, a barmaid at the hotel, was one of those injured in the attack and testified at the hearings.

25 Those who died were Ms Marchelle Cheryl Gerrard (Oosthuizen) [KZN/GW/001/DN] and Ms Angelique Pattenden [KZN/NKS/010/DN]. The injured were Mr Michael Todd [KZN/NKS/001/DN], Mr David Flutcher [KZN/NKS/002/DN], Mr Gavin Maxwell [KZN/NKS/003/DN], Mr T Vulonel [KZN/NKS/004/DN], Mr Kishorelal Dulcharan [KZN/NKS/006/DN], Ms Helen Kearney [KZN/NKS/007/DN], Ms Larreine de la

Rosa [KZN/NKS/008/DN], Mr Craig Shillow [KZN/NKS/011/DN], Mr Andrew Vimnecembe [KZN/NKS/012/DN], Mr Roger Shillow [KZN/NKS/013/DN], and Mr Jonathan Jeffers [KZN/NKS/019/DN].

- 26 In its first submission to the Commission, the ANC noted that this bombing was "in line with the ANC's attempts to take the struggle out of the black ghettos and into the white areas. The target of the attack was the 'Why Not' Bar, near the Magoo's Bar because it was [according to surveillance carried out by MK operatives] frequented by off-duty members of the Security Forces."
- 27 On 21 April 1997, the Commission *subpoenaed* Robert McBride and Zahrah Narkedien to testify in Section 29 hearings in Durban. Narkedien told the Commission she had been tortured by the security police after her arrest in connection with bombing. She testified that, before the explosion, they had been to Botswana to receive instructions from MK command structures. In his own defence, Robert McBride, testified as follows:

*Magoo's is a new invention by the Mercury newspaper. Everybody knew I parked directly opposite the 'Why Not' Bar. Magoo's was never an intended target. And everybody has pretended I acted on my own like a madman ... We were to kill enemy personnel. That's it.*

- 28 In the course of questioning at the hearing, it became clear that McBride's reconnaissance of the Bar to ascertain whether it was frequented by 'enemy' personnel was of a highly amateurish nature.
- 29 A bomb exploded on 20 May 1987 at the Johannesburg magistrate's court, a minor explosion that was followed by a second more powerful charge minutes later. Mr André Duvenhage, a police officer at John Vorster Square at the time, was one of the personnel who attended to the first explosion not knowing that it was a decoy. The second charge killed him. According to the ANC, three police officers were killed and four police officers and six civilians injured in the explosion. Other reports claimed there were four deaths and sixteen injuries. The Commission received submissions testifying to the deaths of Mr Kobus Wilkens [JB06472/03NW] and Mr André Duvenhage [JB02168/03WR] and the injury of Mr Khutswane [JB02168/03WR].
- 30 The ANC lists the incident as an MK operation. The Commission received amnesty applications from Mr William Mabele [AM5313/97] and Mr Joseph Koetle [AM7500/97].

- 31 There were a number of other planned bombings with civilian casualties. In November 1986, two limpet mines exploded at the Newcastle magistrates' court, injuring twenty-four people. Mr Johannes Zwelibanzi Simelane [KZN/KM/643/NC] and Mr Vusumuzi Jacob Hezekiah Nene [KZN/KM/642/NC] testified to the injuries they received in the incident.
- 32 In July 1987, a bomb exploded at the Wits Command, killing one person and injuring sixty-eight military personnel and civilians. Ms Johanna Aleta Klaasen [EC2651/97] submitted a statement in respect of injuries sustained in the explosion. Mr Heinrich Johannes Grosskopf [AM5917/97], Mr Aboobaker Ismail [AM7109/97], Mr Joseph Mnisi [AM4364/97] and Mr Colin Mike de Souza applied for amnesty for their roles.
- 33 In June 1988, a bomb exploded outside Standard Bank in Roodepoort, killing four and injuring eighteen civilians. Statements were received in respect of the injury of Ms Esther Nontombi Caicai [JB1074/01GTSOW] and the death of Mr Frans Monawa Mothoa [JB01950/02NPPTB].
- 34 In another incident on 17 March 1988, a car bomb exploded at the Krugersdrop magistrate's court adjacent to the local police station, killing two SADF personnel and a civilian. Twenty other people were injured. Mr Hein Grosskopf was tried and convicted for the incident. Mr Mohammed Ichbahl (Iqbal) Shaik [AM7151/97] who, together with Mr Aboobaker Ismail, applied for amnesty for the incident, testified at his amnesty hearing that he set up two bombs, the first to serve as a decoy and the second directed at security force personnel but, "unfortunately the decoy failed to explode, due to some malfunction".
- 35 Two people were killed and several others injured when a bomb exploded on 18 April 1986 at the Wild Coast Casino at Bizana in the Eastern Cape. Amnesty applicant Mr Phumzile Mayaphi [AM5247/97] claims the act was in response to the SADF's raid into Lesotho on 20 December 1985 in which nine people were killed. Mayaphi was charged and found guilty of murder and sabotage and sentenced to death on 12 May 1989.
- 36 On 2 July 1988, a car bomb exploded near the gate of Ellis Park stadium in Johannesburg. Two people were killed and thirty-seven injured. Ms Magriet Elizabeth Erasmus [JB06084/99OVE] made a statement in respect of the killing of her husband, Mr Linus Mare, and a colleague, Mr Clive Clucas. Mr Roger Christian Hagerty [EC1442/97ELN] sustained injuries in the explosion. Amnesty

applicants for this incident were Mr Harold Matshididi [AM8007/97] and Mr Billy Agie Shoke [AM8014/97].

37 The ANC conceded that unnecessary civilian deaths arose from the misinterpretation of policy by cadres and activists on the ground. They said that state censorship through the banning of ANC literature and the disruption of broadcasts from *Radio Freedom*, as well as a deliberate distortion of ANC policies, impeded communication between rank and file members and the ANC leadership. The ANC nevertheless refuted the possibility of “different perceptions on the definition of legitimate targets among ANC leaders”.

IN THE COURSE OF THE ARMED STRUGGLE, THE ANC THROUGH ITS ARMED FORMATION, MK, PLANNED AND UNDERTOOK MILITARY OPERATIONS WHERE, THOUGH THE INTENDED TARGET WAS IDENTIFIED AS A ‘MILITARY’ OR ‘SECURITY FORCE’ ONE, MISTAKES WERE MADE FOR A VARIETY OF REASONS, INCLUDING POOR INTELLIGENCE AND RECONNAISSANCE. THE CONSEQUENCE IN THESE CASES, SUCH AS THE MAGOO’S BAR AND THE DURBAN ESPLANADE BOMBINGS, WERE GROSS VIOLATIONS OF HUMAN RIGHTS IN THAT THEY RESULTED IN INJURIES TO AND THE DEATHS OF CIVILIANS. THE COMMISSION FINDS THE ANC RESPONSIBLE FOR THE PERPETRATION OF GROSS HUMAN RIGHTS VIOLATIONS IN THESE INSTANCES.

#### ***Landmine campaign***

38 From late 1985 to mid-1987, some MK units were tasked with laying anti-tank mines in the rural areas of the northern and eastern Transvaal, targeting military patrols. A number of civilians – both white farmers, their families, and black farm labourers – were killed when these explosives were detonated. The ANC estimates that thirty landmine explosions took place in this period, resulting in some twenty-three deaths, including those of two MK members killed in the course of laying a mine.

39 According to a submission from the National Party (NP), “Fifty-seven landmine attacks occurred between 26 November 1985 and 21 February 1991 in which twenty-five people were killed and seventy-six injured”.

40 In its second submission, the ANC expressed its “sincere regret” for the civilian deaths and injuries in this campaign. The ANC stressed that it had ordered its operatives to carry out careful surveillance and to use anti-tank rather than anti-personnel mines so that individual labourers on foot would not detonate the explosives. In its first submission it noted that:

*It was the apartheid regime itself which took steps towards obliterating the distinction between the civilian and military spheres from the time of its adoption of the 'total strategy' programme in 1977, and its later declaration of these areas as military zones.*

- 41 In its second submission, the ANC explained that the high rate of civilian casualties – especially the deaths of black labourers – had led to the MK headquarters halting the laying of anti-tank mines.
- 42 In a landmine explosion that took place on 15 December 1985 at Chatsworth farm in the district of Messina, five people were killed and five injured. Three of the dead were children aged two, eight and ten. Mr Johannes Frederick van Eck [JB00707/01MPWES] was severely injured and lost four members of his family: Johannes Frederick (jnr), Jacoba, Nelmarie and Michael Ignatius. His one-year-old son survived the blast. Two members of the De Nysschen family (Marie and Carla) who were with the Van Ecks also died, while Grizelle and Thea de Nysschen were injured.
- 43 Mr van Eck expressed his concern that the perpetrators, who had been convicted and sentenced, had been released under the indemnity agreement of 1992. Mr Jacobus Johannes de Nysschen [JB00695/02NPTZA] told the Commission that he was convinced the perpetrators were members of the ANC.
- 44 Two people were killed and nearly twenty injured in a landmine explosion on a road close to Messina near the Zimbabwe border on 5 May 1987. Mr Frans Ratshilumela Ramagalela [JB05539/02NPVEN] and twenty others were on the back of the truck which detonated the landmine as it approached the gate of the site where they were to be employed.
- 45 The Commission received submissions in respect of several other victims of landmine explosions in incidents which occurred between November 1985 and December 1986: Mr Elijah and Ms Meluba Mokgamatha [JB00137/02NPPTB], Mr Deon du Plessis de Beer [JB00684/02NPPTB], Mr Manel Mtshiselwa Sindane [JB06350/01ERKAT], Mr Martin Coetzer [KZN/SMB/001/BL], Ms Marietjie Cornelius and Johannes Jacobus Roos [JB01350/01MPNEL] and Mr Lindela Claud Mavundla [KZN/MR/425/PS].

THE COMMISSION ACKNOWLEDGES THE ANC'S ARGUMENT THAT, BY THE MID-1980S, THE FORMER SOUTH AFRICAN GOVERNMENT HAD ITSELF BLURRED THE DISTINCTION BETWEEN 'MILITARY' AND 'SOFT' TARGETS BY DECLARING BORDERS AS AREAS WHERE FARMERS WERE TRAINED AND EQUIPPED TO OPERATE AS AN EXTENSION OF MILITARY STRUCTURES.

THE COMMISSION FINDS, HOWEVER, THAT THE ANC'S LANDMINE CAMPAIGN IN THE RURAL AREAS OF THE NORTHERN AND EASTERN TRANSVAAL IN THE PERIOD 1985-87 CANNOT BE CONDONED IN THAT IT RESULTED IN GROSS VIOLATIONS OF HUMAN RIGHTS – CAUSING INJURIES TO AND LOSS OF LIVES OF CIVILIANS, INCLUDING FARM LABOURERS AND CHILDREN. THE COMMISSION FINDS THAT THE USE OF LANDMINES INEVITABLY LEADS TO CIVILIAN CASUALTIES AS IT DOES NOT DISCRIMINATE BETWEEN MILITARY AND CIVILIAN TARGETS AND THEREFORE CANNOT BE CONTROLLED. THE ANC IS HELD ACCOUNTABLE FOR SUCH GROSS VIOLATIONS. THE COMMISSION ACKNOWLEDGES THAT, TO ITS CREDIT, THE ANC ABANDONED THE LANDMINE CAMPAIGN IN THE LIGHT OF THE HIGH CIVILIAN CASUALTY RATE.

### Killing of individual ‘enemies’ and ‘defectors’

- 46 In the late 1970s, the ANC began to target specific police officers and perceived ‘collaborators’. Initially those killed were former ANC members who had turned state witness in political trials. The ANC justified these killings in its second submission because those killed were “personnel actively assisting SAP”.
- 47 Mr Leonard Mandla Nkosi, a former member of the Luthuli detachment and involved in the ‘Wankie campaign’<sup>3</sup>, became an askari after he was captured by the police and went on to testify against his former ‘comrades’ as a state witness in several trials. Nkosi was killed by the ANC on 9 September 1977. His case is documented in the KwaZulu-Natal regional profile. Mr Jan Daniel Potgieter [AM5418/97] applied for amnesty for having forced Nkosi into becoming a state witness.
- 48 Mr Abel Mthembu [JB00336/01GTSOW], former deputy president of the ANC in the Transvaal, was killed on 14 April 1978 because, according to the ANC’s second submission, he “turned state witness at the Pretoria ANC trial”.
- 49 Mr Tennyson Makiwane [EC0258/96STK] was one of the ‘Gang of Eight’ who had sought to launch a ‘reformed’ ANC and was expelled from the ANC in 1975. Makiwane joined Matanzima’s Transkei government in February 1979. He acted as a “consultant and roving Transkei ambassador” and was believed by ANC members to be revealing confidential information. He was shot dead in Umtata in July 1980. Mr David Simelane [AM5305/97], a member of the ANC, applied for amnesty for this killing, as well as for the killing of other police officers and *askaris*.
- 50 On 26 February 1985, the Pietermaritzburg court sentenced MK members Clarence Lucky Payi [EC0855/96STK] and Sipho Xulu to death for killing Mr Benjamin Langa. Payi and Xulu claimed that they had been led to believe that Ben Langa, an active

<sup>3</sup> In 1967, MK cadres were sent into Rhodesia with Zimbabwe African People’s Union (ZAPU) units in what became known as the ‘Wankie Campaign’. Nkosi was part of the ‘Luthuli Detachment’ which attempted to forge a route into South Africa.

ANC member, was a police informer and killed him on orders they believed came from the ANC.

51 According to the ANC's first submission:

*In a few cases, deliberate disinformation resulted in attacks and assassinations in which dedicated cadres lost their lives. In one of the most painful examples of this nature, a state agent with the MK name of 'Fear' ordered two cadres to execute Ben Langa on the grounds that Langa was an agent of the regime. These cadres – Clement Payi [Clarence Lucky Payi] and Lucky Xulu [Sipho Xulu] – carried out their orders. This action resulted in serious disruption of underground and mass democratic structures in the area and intense distress to the Langa family – which was the obvious intention of Fear's handlers...*

52 Oliver Tambo personally apologised to Langa family for this action. The Commission notes that this incident illustrates that it was not unheard of for MK members to be ordered to assassinate civilians. Mr Joel George Martins [AM6450/97] applied for amnesty in respect of the case of Benjamin Langa, claiming that he supplied information about his movements to MK members.

53 In about April 1986, Mr David Lukhele [JB00646/02PS], former minister of KaNgwane, was framed in a bogus pamphlet associating him with anti-ANC sentiments. A few days before his death, he had met with chiefs to discuss the unification of KaNgwane and Swaziland. On 6 June 1986, he and his sister-in-law were killed in his home in Mamelodi, while watching television. ANC members Mr Neo Griffith Potsane [AM7159/97], Mr Jabu Obed Masina [AM5886/97] and Mr Frans 'Ting Ting' Masango [AM7087/97] applied for amnesty for the killing.

54 Mr Sipho Phungulwa [JB00420/01ERKWA] was part of a group of exiles who were held in ANC detention camps in Angola. The group included Mr Mwezi Twala, Mr Norman Phiri, Mr David Mthembu and Mr Luthando Nicholas Dyasop. They returned to South Africa along with fellow exiles and prisoners and approached various organisations, including the ANC, the South African Communist Party (SACP) and the Congress of South African Trade Unions (COSATU) for assistance in exposing the hardships they had endured in Angola. Phungulwa was shot dead in Umtata on 13 June 1990, apparently while he and Dyasop were trying to seek an audience with the Transkei ANC leadership. Mr Ndibulele Ndzamela [AM5180/97], Mr Mfanelo Matshaya [AM7016/97] and Mr Pumlani Kubukeli [AM5180/97] were granted amnesty on 13 August 1998 in connection with this incident.

55 Further cases of a similar nature may be found in Volume Three of this report.

INDIVIDUALS WHO DEFECTED TO THE STATE AND BECAME INFORMERS, AND/OR MEMBERS WHO BECAME STATE WITNESSES IN POLITICAL TRIALS AND/OR BECAME ASKARIS WERE OFTEN LABELLED ‘COLLABORATORS’ BY THE ANC AND REGARDED AS LEGITIMATE TARGETS TO BE KILLED. THE COMMISSION DOES NOT ACCEPT THE LEGITIMISATION OF SUCH INDIVIDUALS AS MILITARY TARGETS AND FINDS THAT THE EXTRA-JUDICIAL KILLINGS OF SUCH INDIVIDUALS CONSTITUTED INSTANCES OF GROSS VIOLATIONS OF HUMAN RIGHTS. FURTHER FINDINGS IN THIS REGARD WILL BE MADE BY THE AMNESTY COMMITTEE WHEN THE ABOVE CASES AND OTHERS HAVE BEEN HEARD.

### ***Security force personnel***

56 The Commission views armed and/or uniformed combatants on both sides as being ‘legitimate targets’. The deaths of members of the security forces while on duty, armed and in uniform are not considered gross violations of human rights. However, the Commission recognises that there are many ‘grey areas’ in this regard, especially when dealing with unconventional guerrilla warfare, and where the security forces of the state were employing unconventional means (such as using informers, *askaris* and plain-clothes security police officers).

57 Between 1984 and 1987, 144 police officers were killed. According to Minister of Law and Order Adriaan Vlok, it is not possible to distinguish politically-motivated murders of police officers from others. Not all such cases can qualify as gross human rights violations, and in most such cases, the families of the deceased did not approach the Commission. Cases received by the Commission that can be classified in this way concerned the deaths of Mr Johannes van der Merwe [JB00686/02PS] and Mr Thomas Shingange [JB03383/02NPTZA] and the injuries of Mr Edmund Beck [JB00135/01GT] and Mr Welmar O'Reilly [CT03081/GAU].

### **Operations of uncertain status**

58 The ANC submitted two lists of armed actions to the Commission. The acts on the first list were acknowledged to have been committed by ANC members. The second list, however, is entitled “Armed actions for which target category and/or responsibility is uncertain”. No distinction is made in this list between acts that killed or injured civilians because of ‘operational difficulties’, those which were ‘false flag operations’, and those which were acts of *bona fide* MK members interpreting ANC policy in a certain way. In investigating these incidents, the Commission requested information from the ANC but received no response. The cases detailed below fall into the category of ‘uncertain’ status.

59 Mr Annamalai 'Daya' and Mr Leelavathi 'Navi' Rengasami [KZN/MR/014/DN] were killed in a bomb blast on the Esplanade in Durban on 3 April 1984. Mr Yogenathan Gary Govindsamy, the deponent in this case, said that he knew at the time that the ANC was responsible for the blast, and that he heard later that ANC President OR Tambo apologised over *Radio Freedom*. Mr Govindsamy laid the blame for the blast on the NP government for refusing to initiate dialogue with the banned liberation movements. The family was refused compensation from the President's 'Victims of Terrorism' fund because of his statement. The incident is listed by the ANC as being of "uncertain" status.

60 A spate of explosions at Wimpy Bars and supermarkets took place in the late 1980s. These were generally believed to be the work of liberation movements and associated with ANC operatives. The ANC told the Commission that, while a number of such attacks may have originated from MK cadres, evidence has started to surface that some of them were 'false flag operations' by the state, aimed at discrediting the ANC.

61 Statements were received from victims who had sustained injuries in the Benoni Wimpy Bar explosion on 30 July 1988, namely from Ms Catharina and Ms Tarina Janse van Rensburg [JB06049/01ERKAT], Ms Johanna Catharina Aletta Edwards [JB06048/01ERKAT] and Ms Illana Howe. Ms Maryanne de Olivetra Neto Serrano [JB01274/01ERKAT] died in the same incident. The Commission received amnesty applications from Mr Ernest Phumuzi Sigasa [AM5300/97] and Mr Elfias Mabore Ndhlovu [AM5301/97] in connection with the bombings.

62 A car bomb exploded in Bluff Road, Durban on 12 July 1984, killing five people and injuring twenty-seven. This explosion is not listed in either of the ANC's lists. However, Mr OR Tambo is quoted as saying the bomb was intended for a military convoy and that the bombers were "inexcusably careless" for causing civilian casualties.

63 On 24 October 1988, a bomb exploded outside a Witbank shopping mall, killing two and injuring forty-two people. Three people were arrested and sentenced for the act. Submissions were received in respect of the deaths of Mr Jacob Samuel Masuku [JB02150/01MPWES] and Mr Elias Masina [JB03861/01MPWES] and injuries to Ms Maria Petronella Jannette van Heerden [JB00688/02PS], Ms Catharina Elizabetha Magrieta Trollip [JB00691/02PS] and Mr James Radebe [JB02154/01MPWES]. Mr Philip Makwale Nyalunga [AM5299/97] applied for amnesty. The incident is listed by the ANC as of "uncertain" origin.

64 A limpet mine exploded at a bus terminus in Vanderbijlpark on 23 September 1988, injuring nineteen people. A victim submission was received from Mr William Henry Ryan [JB06463/03WR]. The incident is listed by the ANC as of "uncertain" origin. ANC operatives Sipho Nicodimus Mthembu [AM6028/97] and Tsehisi Edward Mokati [AM6028/97] applied for amnesty.

65 A bomb exploded at the Orange Free State Administration Board offices in Bloemfontein on 12 February 1983. Seventy-six people were injured. The Commission received statements from Mr James Mzwandile Tshulu [KZN/JRW/008/BL] and Mr Brandfort Mahato Mazele [KZN/JRW/010/BL]. The incident is listed by the ANC as of "uncertain" origin.

66 On 26 May 1988, Ms Anna Maria Prinsloo [JB00700/02PS] was injured in an explosion outside the African Eagle Building in central Pretoria. The incident is listed by the ANC as of "uncertain" origin.

TAKING INTO ACCOUNT, FIRST, THE FACT THAT THE TARGETS OF THESE OPERATIONS WERE LARGELY SIMILAR IN THAT THEY MIRRORED SIMILAR OPERATIONS FOR WHICH THE ANC DID ACCEPT RESPONSIBILITY; SECOND, THE FACT THAT THE ANC WAS, AT THE TIME THAT THESE OPERATIONS WERE UNDERTAKEN, ENGAGED IN SIMILAR OPERATIONS FOR WHICH IT TOOK RESPONSIBILITY, AND THIRD, THE FACT THAT MANY ANC OPERATIONS WERE CHARACTERISED BY POOR STRATEGIC PLANNING AND CONTROL, THE COMMISSION FINDS THAT, ON A BALANCE OF PROBABILITIES, THESE OPERATIONS WERE UNDERTAKEN BY ANC MEMBERS ACTING IN THE NAME OF THE ORGANISATION AND THAT THEY RESULTED IN GROSS VIOLATIONS OF HUMAN RIGHTS FOR WHICH THE ANC IS HELD ACCOUNTABLE. FURTHER FINDINGS IN THIS REGARD WILL BE MADE BY THE AMNESTY COMMITTEE WHEN THE ABOVE CASES AND OTHERS HAVE BEEN HEARD.

### **Gross violations of human rights in the context of the 'people's war'**

67 In some cases, ANC supporters were responsible for perpetrating gross violations of human rights in contravention of the express policies of the organisation. Some of the individuals responsible have applied for amnesty arguing that, although not formally under orders of the ANC, they believed they were acting in accordance with ANC strategic objectives at the time. Such acts included the killings of local councillors, police officers, alleged informers and others deemed to be 'collaborators'. Such killings sometimes involved the use of the 'necklace' method. The apportioning of accountability for such violations is a difficult matter, given the complexities and difficulties of mass organisation during the period.

68 The relationships between the ANC and other liberation movements in exile, and between the ANC and the internal mass organisations that became central to the resistance movements in the late 1970s and 1980s, were complex. They

were tenuous in that the internal underground structures of the exiled ANC, for most of the period, were weak. This meant that lines of communication and decision-making between those 'inside' and those 'outside' were often ineffective. The relationship was strong in that there was an extremely dedicated core of activists inside the mass movements who owed loyalty to the ANC. Even where they were not formally linked into decision-making structures via underground cells, they communicated with the ANC in exile and on Robben Island through an ingenious variety of methods. Through this complicated and uneven process, activists inside South Africa interpreted what they understood to be 'the line' of 'the Movement'. There were, however, many occasions where activists themselves were, in practice, determining 'the line' and where the ANC in exile was bound to accept their interpretation of events 'on the ground'.

- 69 The ANC played a direct role in the establishment of the 'new generation' of mass organisations in the late 1970s. Mass mobilisation formed one of the 'four pillars' of ANC strategy as outlined in the *Green Book*. Many individual activists who filled key positions in the organisations that made up the democratic mass movement held primary allegiance to the ANC. Their loyalty to two (sometimes more) organisations seldom resulted in conflict, and there was an unspoken understanding that organisations such as the United Democratic Front (UDF) and its affiliates would not act in ways which countered ANC policy – except in as much as they did not engage in armed actions and tried to remain within the terrain of legal operation.
- 70 The fact that individual leaders of the mass movements owed allegiance to the ANC did not necessarily mean that they were all ANC members or linked to the underground network. Yet, some individuals were formal members of the ANC and were involved in the underground structures. With the blurring of the boundaries of these allegiances, it has been difficult to ascertain accountability for the various violations of human rights allegedly perpetrated in the name of the ANC during the 1980s.

### ***Conflict with Inkatha***

- 71 Violent conflict between supporters of Inkatha and supporters of the UDF broke out in parts of Natal in the early 1980s and escalated rapidly over the next ten years. The role of the ANC in this conflict is difficult to determine. On the one hand, many of the conflicts were local battles over resources, control and patronage of Inkatha officials (who controlled, amongst other things, local government,

land access, education and housing in KwaZulu). On the other, the ANC had, from the time of the severing of ties between the two organisations, engaged in propaganda which encouraged its supporters to see Inkatha as 'the enemy'.

72 While the ANC denied that its armed operatives had ever considered political leaders or members of Inkatha to be 'legitimate targets', Mr Joel Netshitenzhe of the ANC told the 'recall hearing' of the Commission that:

*From time to time there were individuals in these structures, be it in the community councils or in the Bantustan structures, who behaved in such a manner within communities that they defined themselves as targets to those communities, and amongst those communities you would from time to time find MK cadres who would have responded to such attacks and provocation.*

73 There were numerous armed attacks on Inkatha members in the late 1980s, involving hand grenades and automatic rifles. The ANC explained that a plan by an MK unit to assassinate Chief Mangosuthu Buthelezi was stopped by MK commanders; however, many lower profile Inkatha leaders were killed.

74 The ANC was asked specifically to respond to documents stating that correspondence to Mr Thami Zulu (at the time head of MK operations in Natal) "emphasised the need to infiltrate smaller groups to deal with Inkatha warlords" from December 1987 onwards. Mr Joe Modise, head of MK, responded that Thami Zulu would have had the "latitude to act" in response to such requests; but that such a request had not been discussed in MK headquarters. Mr Matthews Phosa, who was a member of the MK command in Mozambique at the time, denied that such a matter had ever been discussed.

75 As a result of public statements by Chief Buthelezi that his party would not co-operate with the Commission, the Commission was unable to access any significant number of statements from Inkatha Freedom Party (IFP) members and supporters who were victims of human rights violations. The Commission went to extensive lengths to persuade the IFP to participate in its work, but with limited success. In late 1997, shortly before the cut-off date for the making of victim statements, KwaZulu-Natal premier Ben Ngubane issued a public statement encouraging IFP members who had been victims of violations to make statements to the Commission so they could qualify for financial reparations. This resulted in a small number of IFP victims coming forward.

76 In the submission it made to the Commission, the IFP said that differences between Inkatha and the ANC proved irreconcilable at the 1979 meeting in London. "From then onwards", said Mr Frank Mdlalose, "Inkatha was singled out as an enemy because it refused to crook the knee to the ANC or accept its strategy of armed struggle and the destruction of the South African economy."

77 Relations between the ANC and Inkatha deteriorated rapidly after the London meeting. Initially, the conflict took the form of a war of words. The ANC embarked upon a propaganda onslaught against Chief Buthelezi and Inkatha. UDF supporters on the ground became increasingly antagonistic towards Inkatha, describing its leadership, particularly Chief Buthelezi, variously as a "sell-out" and a "puppet of Pretoria". Former senior IFP official Mr Daluxolo Luthuli told the Commission that:

*Zulu traditional leaders were by this time coming under increasing attack by the ANC. Comrades were attacking, murdering and destroying the homes of councillors, indunas and chiefs. This was a strategy of the ANC and was even announced on Radio Freedom.*

78 The IFP provided the Commission with a substantial volume of information from the propaganda apparatus of the ANC at this time, illustrating the extent to which the IFP became the focal point for opposition to the system.

79 When in late 1985 Chief Buthelezi was alerted to alleged MK plans to assassinate him, he turned to the state security apparatus for support. Buthelezi's requests included the training and deployment of a VIP guard unit, an intelligence structure, a KwaZulu army, the authority to issue firearm licenses and a paramilitary force. The SADF viewed the question of covert assistance to Inkatha as mutually beneficial; it saw Inkatha playing a central role in its strategic response to 'the total onslaught' by the liberation and resistance movements.

80 In his amnesty application, Daluxolo Luthuli confirmed that the IFP felt that the only course open to it was to mobilise a paramilitary capacity:

*Militant youth who were affiliated to the UDF were very active in black areas. Through violence and intimidation they were forcing people to support them in their efforts to make the country ungovernable. People who did not support the comrades were abused in many ways by these comrades. People's courts were held and the sentences which were meted out by youngsters were often inhumane and barbaric. People were commonly sentenced to hundreds of lashes, forced to parade naked through townships and killed by necklacing.*

*Inkatha and its supporters were labelled as collaborators of the white government and were, in the view of the comrades and UDF, enemies. It was common for Inkatha leaders and supporters to be attacked and murdered.*

- 81 In a section 29 hearing of the Commission, former IFP National Council member Walter Felgate said that he had personally advised Chief Buthelezi of the need for a defensive and pre-emptive capacity for Inkatha. He said that what was envisaged was a "strike capacity" for the IFP; not simply a defensive group to look after KwaZulu government VIPs and property.
- 82 The outcome of these developments was the clandestine training of an offensive paramilitary unit, comprising 200 Inkatha supporters. They were trained by SADF Special Forces personnel in the Caprivi Strip, South West Africa/Namibia, during 1986.
- 83 The IFP submitted a list of over 400 alleged office-bearers who, according to the IFP, were deliberately targeted and killed by structures of the ANC and its affiliates. The IFP's submission made it clear that it believed that the killings were part of a deliberate pattern of behaviour on the part of the ANC – in the words of the IFP, "serial killing".
- 84 The Durban office of the Commission conducted an intensive investigation into those incidents that occurred in former Natal and KwaZulu. A significant percentage of the incidents on the list fell outside the Commission's mandate, in that they occurred after the cut-off date of April 1994, and the Commission was thus not able to investigate them. However, it would be safe to assume, from the nature of the information provided by the IFP, that the trends and patterns with regard to these incidents would be similar to those which the Commission was able to investigate. As indicated above, those incidents that occurred in the Transvaal also fell outside the scope of this investigation, owing to limited investigative capacity.
- 85 The Commission investigated 289 incidents, of which it was unable to corroborate 136. In many cases, despite searches of inquest court records, police dockets and government departments supplying birth and death certificates, no trace whatsoever of the individuals could be found. In each of these cases, further information was sought from the IFP, without any success.
- 86 With regard to the remaining 153 incidents, the Commission did not verify as to whether the deceased were in fact office-bearers of the IFP, accepting the *bona*

*fides* of the IFP in this regard. However, in a small number of incidents, death certificates show that the deceased were children and thus patently not office-bearers.

87 The Commission was able to identify the perpetrators or their political allegiance or both in ninety of the 289 incidents.

- a UDF/ANC-aligned paramilitary structures were implicated in the killing of thirty-one IFP office-bearers.
- b UDF/ANC-aligned community members or youth were implicated in the killing of thirty IFP office-bearers. These killings took place within the context of the ongoing IFP/ANC conflict.
- c MK cadres were implicated in the killing of seven IFP office-bearers.
- d UDF/ANC-aligned extra-judicial tribunals ('people's courts') were implicated in the killing of eight IFP office-bearers (the primary reason found for the killings were matters such as witchcraft, personal relationships and crime).
- e Members of the South African Police (SAP) were implicated in the killing of four IFP office-bearers, in the course of confiscating illegal weapons.
- f IFP members were implicated in the killing of six IFP office-bearers due to internal rivalry within the IFP.
- g Non-political criminals were implicated in the killing of four IFP office-bearers, in the course of ordinary criminal activities such as burglary.
- h In three incidents, the deceased died in motor vehicle accidents or as a result of personal or domestic disputes;
- i In four incidents, investigations proved that the 'deceased' were not in fact dead.

88 Accordingly, investigations reveal that ANC, UDF or MK structures were responsible for the killing of seventy-six IFP office-bearers during the period 1985-1994. In only two of the incidents did the perpetrators hold leadership positions in the UDF, ANC or MK. In eight of the incidents, the killings were administered by 'people's courts' and it was not possible to establish whether the IFP members had been targeted because of their IFP membership. However, given the history of the conflict, it would seem safe to assume that membership of the IFP would have played a factor.

THE COMMISSION FINDS THAT, IN SEVENTY-SIX INCIDENTS, THE DECEASED WERE DELIBERATELY TARGETED BECAUSE THEY HELD POSITIONS WITHIN THE IFP. THE KILLINGS OF THESE IFP OFFICE-BEARERS CONSTITUTE GROSS VIOLATIONS OF HUMAN RIGHTS, AMOUNTING TO A SYSTEMATIC PATTERN OF ABUSE, ENTAILING DELIBERATE PLANNING, FOR WHICH THE RESPECTIVE LOCAL STRUCTURES OF THE UDF, ANC AND MK ARE HELD ACCOUNTABLE.

### ***Conflict with 'collaborators'***

89 The conflict arising from the ANC's opposition to the homeland policy began in the early 1960s. Some of the violations perpetrated against chiefs and headmen during the 1960s Pondoland revolt were committed in the name of 'Congress', even though those involved in perpetrating such acts were not acting as part of any ANC structure, either military or political.

90 At times, pressure on chiefs and headmen came from the side of the government and the community simultaneously. For example, during the Pondoland revolt against the implementation of the Trust Land Act, Chief Mhlabuvukile Faku [EC1670/97ETK] of Isikelo village was accused by his community of "collaborating with whites" and, by the police, of "influencing people to resist the Act".

91 Acts of violence were perpetrated by members and supporters of the ANC against perceived 'collaborators' in tribal structures and in the homelands from the early 1960s. These acts continued through the Commission's mandate period, claiming many lives. An example of this is to be found in the attacks on members of the Dikwankwetla National Party (DNP) by supporters of mass movements during the late 1980s because of the DNP's support for the QwaQwa homeland government. Among these cases were the burning down of Mr Mohau Samuel Nthunya's home [KZN/LMR/012/LB] in 1989 allegedly by 'ANC', the stabbing of Ms Tello Maria and Mr Moramang Thaisi [KZN/MT/021/BL] and the burning down of their home in 1989, the burning down of the home of Mr Naferong Jacob Makae [KZN/ZJ/086/BL] in 1989 and the petrol-bombing and stoning of the Botshabelo home of Ms Mathabo Adelina Masunyane [KZN/ZJ/089/BL] in 1988, 1989 and 1990. Responsibility for these attacks, which occurred in QwaQwa and in other areas of the Orange Free State, were attributed to ANC supporters, in spite of the fact that the ANC was banned at the time.

### ***Political accountability***

92 In the mid-1980s, the number of deaths arising from the 'people's war' rose dramatically. The 'naming' of the ANC as a perpetrator organisation during this

period is often inaccurate. In some cases, deponents attributed violations that took place before 1990 to the ANC, although few people operated as ANC members during this period. While the perception that the ANC was responsible for such acts is widespread, the ANC cannot be held directly responsible.

- 93 However, both the ANC and the leadership of the mass movements must bear some general responsibility for atrocities that occurred in this period, committed usually by youths acting in the name of the liberation struggle.
- 94 When violence spilled over to those who were not 'legitimate targets' but who were more easily accessible than armed policemen – such as their families or suspected informers – the ANC dissociated itself from such acts. Youth activists who became involved in acts of violence in the name of the mass democratic struggle must be held individually accountable for their own actions and the consequences of these actions. Yet they acted within a context in which such actions were condoned as being 'part of the struggle', both by their peers and by those to whom they looked for direction.,
- 95 Events in Sebokeng, Duduza and Langa (Uitenhage) in late 1984 and early 1985 illustrate how the cycle of violence started (see Volume Three of this report). Both the ANC and the UDF leadership were 'caught off guard' and ambivalent in their response to this initial upsurge of violence in late 1984/early 1985. While the ANC wanted to direct the violence into a possible insurrection, it did not have the underground or military capacity to do so. There is considerable evidence and support for the argument that much of the violence was undirected.
- 96 On 25 April 1985, the ANC national executive made a call: "Make apartheid unworkable! Make the country ungovernable!"<sup>4</sup>. The destruction of the Black Local Authorities and the pressure put on councillors to resign was seen as an integral part of the making the townships ungovernable. Internally, the campaign was fanned by UDF structures and was the forerunner of the campaign for the building of organs of people's power. In the process of its implementation, some people became victims of gross violations of human rights.
- 97 Interventions in undisciplined activities by groups and organisations 'on the ground' were often ineffective. Leaders of the ANC and the mass movements did not act decisively, for example, to stop the practice of 'necklacing'. They were unable to control the youth militia – the *amabutho* – and those running the

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<sup>4</sup> In a paper entitled: 'ANC Call to the Nation: The Future is Within Our Grasp'

'people's courts' at all times, and sometimes came under threat when they tried to do so. When crowd violence became ugly, few of the leaders of the mass movements – with the exception of some religious leaders – were brave enough to intervene. In many cases, even religious leaders failed to influence the actions of the youth militia.

THE COMMISSION FINDS THAT, IN THE 1980S IN PARTICULAR, LARGE NUMBERS OF GROSS VIOLATIONS OF HUMAN RIGHTS WERE PERPETRATED, NOT BY DIRECT MEMBERS OF THE ANC OR THOSE OPERATING UNDER ITS FORMAL COMMAND, BUT BY CIVILIANS WHO SAW THEMSELVES AS ANC SUPPORTERS. IN THIS REGARD, THE COMMISSION FINDS THAT THE ANC IS MORALLY AND POLITICALLY ACCOUNTABLE FOR CREATING A CLIMATE IN WHICH SUCH SUPPORTERS BELIEVED THEIR ACTIONS TO BE LEGITIMATE AND CARRIED OUT WITHIN THE BROAD PARAMETERS OF A 'PEOPLE'S WAR' AS ENUNCIATED AND ACTIVELY PROMOTED BY THE ANC. VIOLATIONS INCLUDING KILLINGS, ATTEMPTED KILLINGS, ARSON AND SEVERE ILL TREATMENT WERE COMMITTED BY ANC SUPPORTERS AGAINST URBAN COUNCILLORS AND RURAL HEADMEN, MEMBERS OF THE IFP AND OTHER PEOPLE PERCEIVED TO BE 'COLLABORATORS' OF THE SYSTEM OR ENEMIES OF THE ANC.

## Gross violations of human rights committed in ANC ranks and in exile

98 The Commission heard accounts of violations committed by members of the ANC's security structures and by guards of internment camps such as Camp 32 (Quatro), and of orders given or policies adopted by those in political leadership structures which led to such violations. Most such violations occurred outside the borders of South Africa.

99 The bitterness felt by those who claim to have been loyal to the ANC and the cause it represented and who felt they had been betrayed by their own Movement's inability to deal openly with such human rights abuses, is captured in the words of Mr Joe Seremane whose brother, Mr Timothy Tebogo Seremane (aka Mahamba) [JB04441/01GTSOW] was executed in Quatro camp. Joe Seremane told the Commission's special hearings of prisons in July 1997:

*I come here to express the feeling of betrayal by compatriots and comrades ... I want somebody to come and tell me what my younger brother actually did that he deserved to be shot like an animal being put down after being brutally disfigured so that of his best friends could not recognise him ... Why do you think we ran and volunteered to risk our lives, calling for your own return home, for justice, supporting you in your call to be treated under the Geneva Conventions and you couldn't treat your own that way? ... Suddenly nobody has ever come across this young Seremane, suddenly nobody has ever known him, suddenly nobody has a record to show what*

*kind of trial he had, he faced. Was he defended or was he not defended? And where was the accountability that you couldn't account to his people and say he is dead? ... I have been on the Island, I have gone through hell. I have been tortured, nearly lost my life ... I have seen what it means to be tortured. But when I think of Chief Timothy and compare the way he died, to my suffering, my suffering is nothing...*

- 100 The ANC's second submission, presented to the Commission in May 1997, contains details of ANC structures and personnel, MK camps and commanders, and ANC rehabilitation and detention centres, an operations report from the ANC's security department, a description of the workings of the Morris Seabelo Rehabilitation Centre ('Quattro' camp) and case studies of 'enemy agents' who infiltrated the ANC. In addition, confidential memoranda were presented to the Commission containing the names of those executed by military tribunals (with names additional to those in the first ANC submission). Further information about events associated with the ANC in exile was obtained at the Commission's 'recall hearing' on 12 May 1997, at the 'armed forces hearing' on 10 October 1997, and in the Section 29 hearings of former ANC commissar Andrew Masondo and former commander of Camp 32, Gabriel Mthembu held in March/April 1998.
- 101 The Commission does not believe that information relating to abuses committed by the ANC has been deliberately withheld.
- 102 The capacity of the Commission to investigate abuses that took place in other countries was limited. The Commission obtained information, to a large extent, from statements by victims/survivors of ANC violations and amnesty applications by ANC members responsible for such violations. Where possible, corroboration was obtained by taking statements from third parties who were present.

#### ***Background to Human Rights Violations by the ANC in exile***

- 103 Before the establishment of a security apparatus by the ANC, problems of discipline or security were handled by the MK command structures, headed from 1965 by Commander Joe Modise.
- 104 Between 1979 and 1989, the ANC was responsible for committing various human rights abuses upon its members in exile. Many of these abuses were committed by the ANC's security department (established in the mid-1970s) – known by the acronym NAT (for National Security) or *Mbokodo/Mbokotho* ('crushing boulder').

The detention camp in Angola known as Quatro (Number Four), officially called the Morris Seabelo Rehabilitation Centre or Camp 32, was set up in 1979 as a 'rehabilitation centre' and was one of the places where significant abuses took place. Violations also took place at the ANC's headquarters in Lusaka, Zambia as well as in Botswana and elsewhere in Angola.

- 105 The Commission heard that a 'spy scare' in the ANC in 1981 and the poisoning of MK members led to an atmosphere of paranoia about infiltration by agents of the South African government. It was in this context that a number of ANC members were detained and tortured. Some died as a result of assaults and a few were executed. In its Operational Report which it submitted to the Commission, NAT claims credit for uncovering a spy network in 1981 in an operation known as *Operation Shishita*.
- 106 Barely two years after the 'spy scare', a rebellion amongst soldiers in MK camps in Angola resulted in further violations. Frustrations among MK members in the Angolan camps led to the *Mkatashinga* mutiny of 1984. Mutineers at Viana camp were persuaded to end the mutiny by Chris Hani. The leaders were detained; thirty-two were held in Luanda State Security Prison where two died between February and July 1984.
- 107 Three months after the Viana mutiny, there was a further mutiny at Pango camp. The Pango camp mutiny was forcibly crushed by 'loyalist' MK troops with the assistance of Angolan troops. There were casualties on both sides. The mutineers were captured. Some were allegedly tortured, seven were executed and the rest were transferred to Quatro. ANC NEC member Ms Gertrude Shope intervened and prevented further executions.
- 108 Many of those detained in 1984 were held for a number of years without trial. The Commission received statements from detainees who were subjected to assault and torture between 1986 and 1989.
- 109 The events created an awareness of levels of dissatisfaction among MK members, as well as of abuses that were occurring. An internal commission of enquiry into the mutiny made certain recommendations about the treatment of prisoners and the role of the security department. Certain measures were taken to establish legal structures and procedures for dealing with dissidents, including a code of conduct adopted in 1985 and the establishment of the post of 'Officer of Justice'.

110 In 1988, when the ANC was obliged to leave Angola in terms of the New York Accords, the camps were closed and prisoners transferred to ANC camps in Tanzania or prisons in Uganda. In August 1991, the last of the mutineers was released from detention in Uganda and returned to South Africa. The ANC stated at this point that it no longer held any prisoners. However, Amnesty International was told of detainees held in Tanzania, some released only during 1992.

111 In September 1991, the Skweyiya Commission of Enquiry, reporting to the ANC President, was set up to investigate allegations made by a group of thirty-two concerning poor conditions, maltreatment and the loss or destruction of property in the ANC detention camps.

112 The Skweyiya Commission heard evidence from seventeen former ANC detainees, including eleven from the 'group of 32' and six ANC officials. It did not have statutory powers and was unable to *subpoena* witnesses or offer witness protection and relied on witnesses coming forward voluntarily. An independent advocate was appointed to conduct investigations and lead evidence before the commission.

113 The Skweyiya Commission found that detainees were held for periods of from three to seven years without trial and that cells were at times overcrowded, hot and lacking ventilation. Certain detainees were held in solitary confinement for extended periods. Hygiene and medical care were inadequate. The detainees' diet was inadequate and food deprivation was used as a means of punishment.

114 The Skweyiya Commission found that maltreatment at Quatro detention centre in Angola was persistent and brutal, and included discipline and denigration, hard labour, assault and punishment. Before internment at Quatro, detainees were tortured to extract confessions. The Skweyiya Commission found that conditions at other places of detention in Angola, Tanzania, Zambia and Uganda were also unacceptable. It found that the circumstances surrounding the execution of some of the mutineers were unclear.

115 The Skweyiya Commission report was published by the Centre for Development Studies at the University of the Western Cape in August 1992. A confidential list of members of the ANC security department alleged to be responsible for ill-treatment of detainees was submitted to ANC president Mr Nelson Mandela.

116 On 2 December 1992, Amnesty International published a report of its own research into human rights violations by the ANC in exile. It found that the victims of extensive

human rights abuses were in most cases members of MK. The report detailed the abuse, including the death of Mr Thami Zulu in 1989. It also reported on the killing of two former ANC detainees in South Africa: Mr Sipho Phungulwa [JB00420/01ERKWA] in Transkei in June 1990, and Mr Bongani Ntshangase in Natal on 21 May 1992.

- 117 The Amnesty International report criticised the limited terms of reference of the Skweyiya Commission, saying that they precluded incidents of killing and the disappearance of prisoners. The Skweyiya report did not assign individual responsibility for abuses within the ANC, nor did it analyse the chains of command within the security department and MK or between those bodies and the ANC leadership, in order to establish political responsibility for what happened in the camps. The report stated further that the Skweyiya Commission did not cover conditions or abuses in camps other than Quatro in any detail.
- 118 In 1993, the independent Motsuenyane Commission of Enquiry was appointed by ANC president Mr Nelson Mandela. Its terms of reference were broader than those of the Skweyiya Commission. The Motsuenyane Commission held public hearings and heard evidence from fifty witnesses in Johannesburg, including that of eleven alleged perpetrators who gave oral testimony and had the opportunity to cross-examine witnesses. The hearings were public and over 2 500 pages of testimony were received. The commissioners also made an inspection of two former ANC settlements and a United Nations High Commission for Refugees (UNHCR) refugee camp in Tanzania. The Motsuenyane Commission's comprehensive report on human rights abuses in the ANC camps was published in August 1993.
- 119 The report of the Motsuenyane Commission found that there was a lack of accountability for excesses both at Quatro camp and during the investigation of alleged enemy agents. It attributed this to the lack of clear lines of demarcation between MK and Mbokotho (*Mbokodo*), the security department.
- 120 It found further that the leadership did not deal adequately with the concerns and complaints of the mutineers. Arbitrary detention without trial became routine. Quatro personnel were not adequately trained and supervised and did not have the maturity or experience to deal with suspected enemy agents. There was a breakdown in communication between *Mbokodo* and the Officer of Justice which resulted in the continued improper detention of persons without trial. The Officer of Justice was not effective in administering the code of conduct to protect the human rights of detainees.

121 The Motsuenyane Commission concluded that, with the completion of its report, the ANC's task was only half done:

*Indeed, the victims of the abuses catalogued here have now been heard but, in the view of the Commission, they have not yet received the full measure of justice due them.*

122 In response to the findings of the Motsuenyane Commission, the ANC NEC told the Commission that it "deeply regrets the excesses" that took place:

*Further, we acknowledge that the real threat we faced and the difficult conditions under which we had to operate led to a drift in accountability and control away from established norms, resulting in situations in which some individuals within the NAT began to behave as a law unto themselves.*

123 The reports of these and other commissions are now part of the public record, having been submitted to the Truth and Reconciliation Commission (as recommended by the Skweyiya Commission).

## Cases before this Commission

### **Killings**

124 Most of the reported violations committed by the ANC in exile related to the killings of individuals by order of a military tribunal. While the ANC denied in its submissions to this Commission that there were extra-judicial or arbitrary executions of its members, it did acknowledge at the 'recall hearing' of 12 May 1997 that a code of conduct was put into practice only in 1985. Before this, the tribunals that sentenced people to death were *ad hoc* and did not allow the accused any form of legal representation.

125 Appended to the ANC's First Submission is a list of some 900 people who died in exile (including those killed in the mutiny and those executed). Although the ANC itself concedes that the list is not entirely accurate, many deponents who came to the Commission with relatives missing in exile can be accounted for in this list.

126 Those who died of natural causes, accidents or were killed in combat are not considered by the Commission to be victims of human rights abuse. There were,

however, certain cases which suggested aggravating circumstances where detainees are said to have died of ‘natural causes’. In some of these, the families of those who died contest the ANC’s version of how they died. In such cases, the deponent is given the benefit of the doubt and this Commission found the missing person to be a victim of a gross violation of human rights.

- 127 The ANC also submitted to the Commission a list including those MK members who died “as a result of excessively harsh treatment after committing breaches of discipline” (Confidential Appendix). All these cases are considered to be gross violations of human rights. Included in this list were twenty-two names under the heading “Agents executed on order of tribunals”.
- 128 Timothy Tebogo ‘Chief’ Seremane aka Kenneth Mahamba [JB0441/01GTSOW] was executed by the ANC in Angola. Seremane is listed as one of those executed in 1981 by order of the ANC’s military tribunal. Joe Seremane, his brother, is not satisfied with the ANC’s explanation for events in the camp. He believes that his brother was not “executed cleanly”. He has been told that his brother was “brutally disfigured” before being shot. In an article in *Searchlight South Africa* (July 1990) it is claimed that many of the young men in the ‘spy-ring’ of 1981, including Seremane (Mahamba), “were later known to have died under torture and beatings in Quatro prison camp”.
- 129 The ANC provided a detailed background to the circumstances in which these events occurred. They are summarised as follows.
- 130 In 1981, the security department arrested a group of suspected agents in 1981 and claimed to have been “shocked at the extent of infiltration” of the organisation. The exposure seems to have followed the arrest of Mr Thamsanqa W Ndunge (MK name Joel Mahlathini Gxekwa), an MK member alleged to have been dealing in marijuana at Pango Camp in Angola. Ndunge was arrested by camp commander Seremane (Kenneth Mahamba), who ordered cadres to beat him and authorised his detention in Camp 32. He was dead on arrival at Quatro.
- 131 The ANC said that an investigation by the regional command revealed that Mahamba was a security police agent who had been recruited in 1976 whilst residing in Montshioa Township, Mafikeng. According to the ANC, Mahamba received formal training at the Rooigrond Centre during 1976. Mahamba is alleged by the ANC to have been involved in passing “information to the enemy” which, among other things, resulted in the SADF attack on its camps in 1979. He

was also accused of carrying out acts of sabotage against army property, theft and sale of army property, breaking of Land Rovers and ambulances and other offences. The ANC Security Department's submission alleges that Mahamba became a fully-fledged member of the security police in 1976 and in that capacity passed on strategic information on ANC camps and residences to the security police, leading to the bombardment and destruction of Catengue Camp in 1979.

- 132 Several members of the spy network uncovered at this time were executed after their cases had been heard by a Tribunal. In this respect, the ANC acknowledged that some cadres who were arrested at the time were either falsely implicated, or had merely shown signs of ill-discipline. Many of them were later released. Apologies were tendered for wrongful arrest, and they were re-integrated into the exile community.
- 133 In its second submission, the ANC said that it conducted "exhaustive investigations" and tried the accused by military tribunal. The tribunal reported its findings to HQ, "where a final decision would be made".
- 134 At the 'recall hearing' of political parties, ANC leaders were questioned about the constitution of military tribunals, how evidence was weighed, and whether the accused had legal representation. It is apparent from the testimony of Mr Thabo Mbeki that the tribunals constituted from 1982 were *ad hoc* tribunals, which consisted of at least two members of the Revolutionary Council and others from the Working Committee. The *prima facie* evidence with which the accused was confronted would have been gathered primarily by NAT, but would draw also from information from military and political structures inside South Africa.
- 135 Referring to the Skweyiya Commission report, in which Mr Piliso (the head of NAT) admitted to having ordered the beating of suspected agents in 1981 in order to obtain information "at any cost", this commission questioned whether confessions obtained in this way could be trusted as evidence. The ANC explained that not only confessions, but also material evidence was used in the investigation process. In respect of legal representations at the *ad hoc* tribunals, Mr Mac Maharaj responded: "I don't think that the '82 tribunal had a legal representative to defend those who were brought to book". The procedure was that the accused were presented with their confessions and other evidence against them and given an opportunity to explain. Mac Maharaj conceded that in 1982:

*... we made no provision for legal defence of the accused ... I don't believe that we had yet reached the point where tribunals as a mechanism, where the mechanisms of the rights of the accused were gone into detail as we did by 1984.*

- 136 The ANC NEC took the final decision approving the execution of Seremane (Mahamba) and three others. The ANC said that there were other cases of executions of agents where the same procedure was followed.
- 137 Because of the contentious nature of this issue and the high levels of publicity it had received, the Commission made further attempts to clarify the circumstances surrounding the death of Timothy Seremane (Mahamba) as well as other events in Quatro camp by holding two section 29 hearings where General Andrew Masondo, Mr Gabriel Mthembu and Mr Sam Mnisi answered questions by the Commission.
- 138 In response to the allegation that Mr Gordon Moshoeu had seen Seremane when he had been "beaten beyond recognition" before being executed, Mr Gabriel Mthembu said "it was not easy, he did not readily confess and I think in the process of investigation of trying to get him to admit the truth, he was beaten." When Mthembu was asked whether he had participated in assaulting Seremane, he responded: "I could have clapped him, I don't want to dispute that." He said that "Masondo was involved the day when Mahamba got detained, he was invited to come to Camp 32". He (Mthembu),

*disarmed him [Seremane] ... and then immediately thereafter as a prisoner he was then invited in front of the commissar ... as interrogations were conducted with him he ended up confessing that he was in fact at one stage recruited and given training and sent outside ...*

- 139 Mr Sam Mnisi testified as follows:

*I did take part in his interrogation. But let me say that at that time the leadership was around. One wouldn't like to do such a thing in the presence of the leadership because they never gave us the mandate to do those exercises. So we wouldn't have done torture or whatever in the presence of the leadership and by the time the leadership left, I left with them, going to Luanda ... So at that time the leadership was there, so, we wouldn't have done such a thing in their presence.*

THE COMMISSION FINDS THAT TIMOTHY SEREMANE WAS TORTURED AFTER THE ANC UNCOVERED A 'SPY NETWORK' IN 1981. THIS RESULTED IN A NUMBER OF ALLEGATIONS OF ASSAULT AND TORTURE COMMON AT QUATRO (CAMP 32). THE COMMISSION IS UNABLE TO MAKE A FINDING REGARDING THE ALLEGATION THAT SEREMANE WAS AN AGENT OF SOUTH AFRICAN SECURITY FORCES. HOWEVER, THE COMMISSION ACKNOWLEDGES THE DIFFICULT CONTEXT IN WHICH THE ANC OPERATED AT THAT TIME, PARTICULARLY IN THE FACE OF INFILTRATION BY THE SOUTH AFRICAN SECURITY FORCES.

THE COMMISSION FINDS THE FOLLOWING PEOPLE RESPONSIBLE FOR THE TORTURE OF SEREMANE AND NOTES THAT THERE MAY BE OTHERS WHO COULD NOT BE IDENTIFIED:

- MR LULAMILLE DANTILE (MORRIS SEABELO), REGIONAL CHIEF OF SECURITY (DECEASED)
- MR JOSEPH VOOKI, REGIONAL CHIEF OF PERSONNEL (DECEASED)
- CAPTAIN LENTSOE, DEPUTY REGIONAL HEAD
- MR SAM MNISI (GEORGE ZULU), RECORDING OFFICER AND CHIEF OF STAFF
- MR GABRIEL MTHEMBU (SIZWE MKHONTO), CAMP COMMANDER.

140 Mr Gabriel Paki Moshoeu [JB0074/03NW] was executed by firing squad in Angola in 1982 and is listed by the ANC in its first submission under the heading, "Executed By Order Of Our Military Tribunal", as well as under, "Agents Executed On Order Of Tribunals" (Confidential Appendix). The Motsuenyane Commission records that the execution was related to "disturbances in the ANC Camp".

141 Andrew Masondo, who was Political Commissar of MK at the time, told the Commission that he had been a member of the Review Committee of the court martial that had sentenced Gabriel Moshoeu to death. Masondo's account is that Moshoeu's execution was based on information that Moshoeu "joined the enemy" while in combat with MK in Zimbabwe:

*Moshoeu's brother was in the front, he was in Zimbabwe with a group of MK chaps who were fighting, side by side with the ZIPRA chaps. In the course of that battle, he vanished and his other colleagues were looking for him. He comes up later, he can't explain his disappearance. They investigate, they find out that he had had contact with the enemy ... When he got to Angola he was court martialled and sentenced to death.*

142 Gabriel Mthembu testified that he was not personally involved in investigating Gabriel Moshoeu's case. He said he –

*had to exercise supervision over investigation of all these broad issues; but I also had superiors over me like Masondo, Mzwandile Philiso and other officers;*

*I think my immediate superiors, were regional headquarters at that time, that would be Captain Lentsoe, (Regional Chief of Security, Angola) Joseph Vooki (Regional Chief of Personnel, Angola – deceased); Alfred [Wana] Regional Chief of Security before Captain Lentsoe).*

143 According to Mr Gordon Moshoeu, Gabriel Moshoeu was “tried by a kangaroo court” which comprised Andrew Masondo, Joe Modise and Mzwai Piliso. Mthembu confirmed that these individuals made up the tribunal, but denied that it was a ‘kangaroo court’. He testified that:

*There was overwhelming incriminating information and evidence against Gabriel Moshoeu and it was on that understanding, on the strength of such information and evidence that he was locked up at 32. He might have been beaten in the process of investigation when people were trying to get him to confess given the overwhelming nature of evidence against him.*

144 General Masondo was asked to respond to the Motsuenyane Commission’s recommendation that there be an apology made to the people who were wronged. He said:

*People who it was found that they were enemy agents, we executed them, I wouldn’t make an apology. We were at war. If it can be proved that they were executed wrongly, I would be stupid not to say I apologise. But once people were threatening, the people who killed some of our comrades, I can’t be apologetic that they were executed, then I wouldn’t be doing justice to those comrades who died.*

145 Mr Derrick Boitlhomo Lobelo (MK name Vusi Mayekiso) [JB00186/03NW] was executed by the ANC in Luanda, Angola in 1982. He went into exile in 1976 and was a member of MK and ANC. His name appears in the ANC First Submission under the heading, “Executed By Order Of Our Military Tribunal”, as well as in the Confidential Appendix submitted by the ANC. An unnamed witness who testified to the Motsuenyane Commission alleged that Lobelo was killed by camp warders in 1981, because he was “cheeky” or obstinate. According to the ANC, Lobelo was recruited to work for security forces “whilst he was working for the Bophuthatswana Admin” in 1972.

## **Deaths in/after detention**

146 Mr Muziwakhe Ngwenya, aka Thami Zulu or 'TZ' [JB00459/01GTSOW], an office-bearer in Angola MK structures between 1980 and 1983 and thereafter in Natal, died in November 1989 at the University Teaching Hospital in Lusaka, a few days after his release from detention by the ANC. A medical report dated 1 November 1989 and submitted to the Commission by the ANC indicates that he was diagnosed HIV positive as well as suffering from tuberculosis. The report notes, however, that "his death was brought about by poisoning which must have been taken in within a day or at most two days prior to his death".

147 If Ngwenya (Thami Zulu) was poisoned, argued the ANC, the South African security forces could have been the only ones responsible for the poisoning – either because he was an agent who needed to be silenced before he gave the game away or because they wished to discredit the ANC by making it appear responsible for the killing.

148 Former CCB Intelligence Officer, Christo Nel, told the Commission at a section 29 hearing that he:

*... learnt about the whole debate around TZ from Henri van der Westhuizen. He had much more intimate knowledge about the suspicions around TZ and the later alleged poisoning of him or the killing of him which I don't know. I don't want to speculate. Henri said there was maybe a project to make [it] look like an agent and therefore he was killed by MK*

149 A Commission was set up in 1989 to investigate the circumstances surrounding the death of Ngwenya (Thami Zulu). It noted that:

*Dr Ralph Mgijima, head of the ANC Health Department and a long-time personal friend of TZ, described in vivid terms how TZ was brought to his house ... TZ told him that his condition had deteriorated drastically while he had been kept in an isolation cell lying all day on a mattress on the floor. TZ was angry at the way he had been treated, but never alleged that any violence had been used against him.<sup>5</sup>*

150 Medical practitioners who conducted a post mortem and those who conducted further tests on blood samples reached contradictory conclusions. However, although one group of medical practitioners came up with negative results when

<sup>5</sup> Commission Report on Death of Thami Zulu 1989, p.10

testing for traces of diazinon or another pesticide, they conceded that the chemical could easily have dissolved in the quantity of alcohol found in Ngwenya's (Thami Zulu) blood and that, with time, the chemical decomposes.

151 At the 'recall hearing' in May 1997, the ANC responded to this incident as follows. Mr Thabo Mbeki said:

*Thami Zulu was ... recalled ... from Swaziland to Lusaka because we were sustaining high losses of cadres who were coming down that route into the country, getting intercepted, getting killed, getting captured ... Investigations into the extremely high casualty rate within the MK structures under his command were accepted as constituting sufficient grounds for his recall. Within the context of international military norms commanders under similar circumstances have been subjected to far worse treatment. When he was in Lusaka, Thami Zulu was not confined to a detention centre; he spent most of his time in residences although separated from the rest of the ANC community. At no time was he tortured or subjected to any undue pressure. When he was released he was ill. Independent pathologists found that he had contracted the HIV virus and was suffering from Aids-related complex and possibly pulmonary TB.*

*However Thami Zulu died of poisoning after his release and to this day it is a matter of conjecture as to who administered this poison and why this was done. Our own security department has reason to believe that an agent or agents of the regime was responsible.*

152 Conclusive evidence that Ngwenya (Thami Zulu) was a South African security police agent has not emerged. The Commission was unable to make a conclusive finding in this matter.

### ***Executions and killings***

153 In early 1984, a group of MK soldiers mutinied in a camp in Angola. The mutiny was defused with the help of Angolan soldiers. An Angolan soldier and MK cadre known as 'Babsy' (Sithube) was killed in the process.

154 A further mutiny took place on 13 May 1984 at Pango camp, also in Angola. The mutineers killed Mr David Mashaba (MK Matthews Nyamande), Mr Douglas Seleke (MK Khotso Lebogang), Mr Mauldin Maziyane (MK Zenzile Phungule), Mr Mxolisi Kota (MK Zola Mazwayi), Mr Vusimuzi Mnisi (MK Duke Maseka)

[JB0399801/MPNEL], Mr Phillip Gumede (MK Micro Benya) and Mr Samuel Kulati (MK William Sithole), all of whom were working in the camp at various levels of administration.

155 Five days later, on 18 May, loyal members of the ANC fought with the mutineers and recaptured the camp. The mutineers who were killed during the clash were Mr Roan Mabitle (MK Gibson Mazibuko), Mr Garmeek Mfana (MK Dan Mkwanzani), Mr Jomo Phahla (MK Jilly Khumalo), Mr Raymond Makhawule (MK Sticks Mayathula), Mr Samson Tsotsi Senatla (MK Gilford Mphephu) [EC2642/97ELN], Mr Samuel Sejake (MK Fezi Mehlomakhulu), MK Lungile Nonkanyazi, Mr Mpini Tshabalala (MK Cromwell Qwabe) and Mr Zakhele Jonas (MK Jonga Masupa). The ANC reported that Tshabalala "fled the camp and committed suicide with a pistol" and Jonas "died of malaria" because "he refused treatment". The ANC also indicated that Simon Nkosi (Norman Seku) and Mvula Bethinja (real name uncertain) escaped and have not been heard of since.

156 Seven people were executed following an investigation and subsequent tribunal. They were Mr Edward Malope (MK Joseph Masimini) [JB02900/01MPMOU], Mr Zwelethemba Magwa (AK Jongile Mzwandile) [EC0493/96ALB], Mr Masibulele Tonisi (MK Hobo Walter) [EC1592/97ELN], Mr Mandla Reuben Jele (Stopper Nyembezi), Mr Cekiso Hoyi (MK Ronald Msomi), Mr Irvin Ondala (MK Wandile Mashaqane), Mr Mlamli Namba (MK James Nkabi (Mkhambi) [EC0065/96PLZ].

157 Nine 'dissidents' were sentenced to death by the tribunal, including Masupa (listed above) who had already died of malaria. The ANC reported in its first submission that none of this second group "was executed, despite the fact that one of the mutineers had hunted down wounded cadres the morning after the mutiny began, and finished them off." The ANC named the eight as Mr Mazolani Skhwebu, Mr Papa Nxele, Mr Hamba Zondi, Mr Mzwandile Mgaza, Mr Lizo Boo, Mr Veli Kona, Mr Mzwandile Singanto and Mr Thembile Mthethwa.

158 The ANC executed some cadres who were found to have committed "major breaches of discipline". In the Confidential Appendix, the ANC submitted the following names of those who were executed under this category: Mr Lucas Mongake (MK Osmond Mogorosi) found guilty of rape and murder and executed in 1981; Mr Clifford Lefatshe Ngaba (MK Raymond Mvundla) found guilty of rape and murder and executed in 1983; Mr Abraham Theko (MK Tony Langa) found guilty of rape and murder and executed in 1983; Mr Thabo Makudobethe (MK Rufus Mtshali) found guilty of rape and executed in 1984; MK Leonard Mabuza

found guilty of rape and executed in 1988; Mr Sipho Bam (MK Skhumbuzo Philane) found guilty of murder and executed in 1983; Mr Degree Yako (MK Amos Twala) found guilty of murder and executed in 1988; Mr David Matiwane (MK Ben Ximba) found guilty of murder and executed in 1988; Mr Sydney Hlongwane (MK Dick Mavuso) found guilty of murder and executed in 1989.

### **Torture**

159 The ANC list included people who died from assault "as a result of excessively harsh treatment after committing breaches of discipline". These included Mr Ntobeko Mabukane (MK Similo Lobengu) who died in 1979; Mr Isaac Motsoatsila (MK Oupa Moloi) who died in 1981; Mr Thamsanqa Ndunge (MK Joel Mahlathini Gxekwa) died in 1981; MK Amos Tsetsane, died in 1979; Mr Pharasi Motlalentoa (MK Elick Mabuza) who died in 1981 and Mr Walter Daka (MK Mr Reggie Mathengele) who died in 1981.

160 At the 'recall hearing', the ANC acknowledged that it used torture to extract confessions from those suspected of being enemy agents. This occurred especially in the period of the 'spy scare' of 1981. At the Skweyiya Commission, Mr Mzwai Piliso, the head of NAT, said that he had taken part in the beating of suspects in 1981. A plot to assassinate certain ANC members had been uncovered and suspects were interrogated over a period of two weeks. The suspects were beaten on the soles of their feet in Mr Piliso's presence, because other parts of the body "easily rupture". Mr Piliso justified this treatment on the basis that he wanted information and he wanted it "at any cost". At the same hearings, Mr Mountain Xhoso justified the torture of Mr Keith McKenzie [JB05820/02PS] in 1987, also on the basis that he had information which had "life-or-death" implications for other people.

161 Evidence before the Commission shows that torture was used by members of NAT to extract confessions from suspected agents in the period from 1979 to 1989. Mr Gabriel Mthembu explained the circumstances in which this occurred:

*Suspects were believed to be harbouring crucial information that could result in the death or arrest of comrades as well as the exposure of arms caches ... Therefore the possible use of force was seen as a preventative measure under the circumstances.*

162 Mthembu told the Commission that the ANC was generally very cautious about extracting information under duress. However, said Mthembu, "there were extreme

circumstances where we literally had to scare off somebody" and in some of these cases, detainees were beaten. Also beaten were prisoners who had escaped and were recaptured. Persons found responsible for raping Angolan women were beaten "before being sentenced to death by the tribunal".

- 163 Members of MK selected for intelligence work were sent to the USSR and/or the German Democratic Republic (GDR) for training in 1978 and 1979. At a section 29 hearing, Gabriel Mthembu testified that he was sent to the GDR for six months initial training, and then for a further course of specialised training in security and intelligence. He testified that the standard of training in the GDR was high, and that he was trained in counter-intelligence including the thorough screening of new recruits and the assessment of the potential of new recruits.
- 164 The Operations Report of the NAT states that the training received "emphasised that the use of force was counter-productive, and stressed the use of the intellect". The NAT report provides details of interrogation techniques employed:

*Various techniques were used in interrogation. It was common to ensure that suspects were sitting in uncomfortable positions to put pressure on them. Using force was explicitly against policy, but this did occur at times, particularly in cases where the Department was aware that lives of other people in the field were at stake. There were some cases in which suspects were severely beaten, particularly before 1985.*

- 165 Confessions obtained under these circumstances were used to prove the complicity of the suspect before an *ad hoc* tribunal.
- 166 Torture (which is intentional and purposive cruelty, usually designed to obtain information or a confession) was not used in a systematic or widespread way by the ANC. It was used by a limited number of ANC members who were members of the security department and in specific time periods. It was not an accepted practice within the ANC and was not used for most of the three decades with which the Commission is concerned.
- 167 The relatively low number of such violations and the limited extent to which they occurred demonstrate that torture was not a policy of the ANC. The Commission nonetheless finds that the use of torture was unacceptable whatever the circumstances. There are no extenuating circumstances for torture; there is no cause which is so just that torture can be justified in fighting for it.

168 In addition, it must be accepted that any confessions obtained through torture are invalid, and people who were executed as a result of such confessions must also be considered victims of a gross violation of their rights – whether or not there was substance in their conviction, and whether or not they themselves were also perpetrators of human rights violations or were indirectly responsible for such violations.

169 The Commission received victim statements from a number of people who experienced torture at the hands of the ANC, and a few further statements from people who claimed that others were tortured by the ANC.

170 Mr Diliza Mthembu [JB00336/01GTSOW] told the Commission he was detained for over four years in Quatro camp and subjected to various forms of torture. Mthembu is currently a staff sergeant in the SANDF. He was one of the 'Soweto generation' who left South Africa in 1976 to join the ANC. He spent the following twelve years in Angola, became an MK Commander and, in 1981, was appointed chief representative of the ANC in Benguela province.

171 Mthembu was detained at Viana camp and Quatro on several occasions. He told the Commission that his torture included being given electric shocks, being suffocated with gas masks, hit with broom sticks all over his body, hit with a coffee tree branch on the buttocks continuously for a whole day, forced at gun point to simulate sexual intercourse with a tree; forced to chop down a tree full of bees and to climb a tree full of wasps; forced to undress and lie on the ground among ants, and forced to pull a water tank.

172 Mthembu also referred to food deprivation in Quatro which he claims led to the deaths of Mr Selby Ntuli and Mr Ben Ntibane [JB00336/01GTSOW]. Mr Ronnie Masango makes the same allegation about the deaths of Ntuli and Ntibane.

173 Mr Gordon Moshoeu [CT02913/OUT] was detained for four years and was tortured in Quatro camp from 1981 to 1984, accused of being an 'enemy agent'. He lost his teeth and was scarred in the process. He names several persons who were allegedly involved in his torture which included having wild chillies smeared "on his private parts and anus" in Quatro camp in 1981. Gabriel Mthembu told the Commission that:

*There was overwhelming incriminating information and evidence against Gordon Moshoeu and it was on that understanding, on the strength of such information*

*and evidence that he was locked up at 32. He might have been beaten in the process of investigation when people were trying to get him to confess given the overwhelming nature of evidence against him.*

174 Mr Kenneth Mncedisi Sigam [CT00323/OUT] was “forced to leave the MK camp” in Angola after “he opposed a decision of the leadership” and opposed the use of corporal punishment on comrades. A tribunal was held after which he was taken to Camp 32 on 18 May 1984. Here he said he was subjected to various forms of torture, including having melted plastic dropped on his back, having his head bashed against a wall, being made to lie on cement and having his head trampled on, being hit on the head with a steel rod, being forced to touch his toes whilst being beaten with a stick, being smacked on the face whilst being beaten; having a cloth put in his mouth and smacked. He was also beaten while being forced to pull a tank of water and was forced to chop large trees. In 1990, after six years in Camp 32, he was taken to Tanzania and held in prison for eight months in solitary confinement. He was released in 1991.

175 Mr Anthony Thozamile Ntoni [CT00751/OUT], told the Commission that he was tortured for three weeks by “MK officials” because, he believes, he spoke out about the mysterious death of his friend Mac Plaatjies who was implicated in the death of Joe Gqabi and later died from snake bite. Ntoni was arrested in May 1982, at Caculama training camp in Angola and beaten on the face with a gun and with fists, kicked on the legs, injected with drugs so that “he could not speak or move for a few hours” and held in a “store cell”. He was given electric shocks and was forced to perform exercises and beaten when he stopped. He was tied to the seat of a truck by his neck and hands and choked when the truck went over a bump, until he collapsed. In June 1982, he was taken to Luanda where he was placed in a small container for two to three days; it was opened when he panicked and kicked and screamed. He was taken to Quatro camp, where he was beaten and questioned about his behaviour at Caculama camp. He was held there until May 1984 and was released when he “told them what they wanted to hear”. His name does not appear in the ANC records submitted to the Commission.

176 Mr Ronnie Buyaphi Singer Masango [CT00743/OUT] was involved in the 1983 mutiny in Angola because he disagreed with the decision of the ANC NEC that MK should assist in fighting UNITA. He was detained for fourteen months in Luanda during which time he was interrogated, beaten and kicked all over his body. He was deprived of food, and blames the death of two others on deliberate starvation.

Masango was also locked up in a container in Angola in 1987 and used an axe to make holes to allow air into the container. He was detained in Tanzania in 1989 and finally released in 1990 when he returned to South Africa having been labelled a spy. His name does not appear in the ANC records submitted to the Commission.

177 Mr Daliwonga Fikile Mandela [CT01044/OUT] joined MK in 1978. In 1983 he was detained at the ANC 'Green House' in Lusaka, suspected of being a spy because his father was working for the Transkei National Party headed by KD Matanzima. He was interrogated and tortured daily for up to six months, kicked and beaten with *sjamboks* (whips), canes and irons; he was forced to dig a grave and told that it was his own. He said that, when he was released, he "was told not to reveal the names of the torturers to the doctor in Lusaka". He claims he was threatened by Mr Joe Modise, Mr Alfred Nzo, Mr Steve Tshwete and Mr Jacob Zuma; and that he was warned by Mr Chris Hani and Mr Sikhumbuzo Radu that his life was in danger. He fled from Lusaka in 1987 after these threats.

178 Mr Gregory Camp [CT0294/OUT] was detained in 1980 and taken to Quattro where he was held without trial for seven years. He had to perform forced labour such as cutting logs, carrying water, washing security clothes and digging trenches. He was deprived of sun, food, and water for drinking and washing. He was tortured by being whipped with electrical cord, stripped naked and beaten with sticks, beaten with the butt of an automatic rifle, and punched and kicked. He was held in solitary confinement for 117 days. He was insulted and humiliated.

179 Ms Ntombentsha Jeanette Makanda [JB0577901/GTSOW] was detained in Lusaka in September 1980 and again in May 1985. She had her hands tied behind her back and was kicked and punched; a dirty towel was placed in her mouth and she was whipped with an electric cord. She was sexually abused and subjected to daily beatings.

180 Further submissions on torture experienced in the exile camps was received from Mr Cyril Fuzile Khamlane [JB05058/03VT], Mr Paul Jeremiah Dumisani Matli [KZN/ZJ/055/DN MATLI], Mr Bangiso Petros Boilane [KZN/ZJ/075/BL], Ms Victoria Kashe-Mngadi [KZN/SS/400/DN], Mr Bhekinkhlanhla Lookluck Mpungose [KZN/SS/059/DN], Mr Mphafane Jacob 'Blackie Malinga' Khang [KZN/MOL/018/BL], Mr Sipho Bongani 'Doh' Ngema [KZN/KM/0001/DN], Mr David Malaisha Makhubedu [JB05830/01ERKWA], Mr Keith Charles McKenzie [JB05820/02PS], Patrick Oupa Tawe [JB06343/01ERKAT], Mr Matimba Bheki Khoza [JB06333/

01GTSOW], Mr Mandla Annanias Ntuli [JB06323/02PS NTULI], Mr Vuyani Mbuyiselo Malgas [JB05949/01GTSOW], Mr Johannes Bongizembe van Wyk [B029120/01MPMOU], Mr Robert Vusumzi Shange [JB03070/01GTSOW], Mr Takalani Matidze [ICT05012/OUT] , Mr Luthando Nicholas Dyasop [JB00420/01ERKWA], Mr Gabriel Phemelo Setlhoke [JB00846/01GTSOW], Mr Amos Maxongo [EC0265/96PLZ], Mr Gugulethu Gxekwa [EC0832/97KAR], Mr Nceba Makasi [EC2179/97NWC], Mr Tebello Motapanyane [JB00259/01GTSOW], Mr Olefile Samuel Mngqibisa [JB00311/01GTSOW], Mr Barry Qethu Mdluli [JB00522/01GTSOW], Mr George Linda Gladstone Dube [JB00155/01ERKAT], Mr Tony Lincoln Mzwandile Msomi [JB00165/99OVE], Mr Edward 'Teddy' (Mwase) Williams [EC0247/96WTK], Mr Patrick Mncedisi Hlongwane [AM8028/97], Mr Mpho Samuel Motjuoadi [JB02199/02PS], Mr Lita Nombango Mazibuko [JB04442/01MPWES] and Mr Connie Khunjuzwa Ndesi [JB05902/01GTSOWNDESI].

ON THE BASIS OF THE EVIDENCE AVAILABLE TO IT, THE COMMISSION FINDS THAT THE ANC, PARTICULARLY ITS MILITARY STRUCTURES WHICH WERE RESPONSIBLE FOR THE TREATMENT AND WELFARE OF THOSE IN ITS CAMPS, WERE GUILTY OF GROSS VIOLATIONS OF HUMAN RIGHTS IN CERTAIN CIRCUMSTANCES AND AGAINST TWO CATEGORIES OF INDIVIDUALS - SUSPECTED 'ENEMY AGENTS' AND MUTINEERS.

THE COMMISSION FINDS THAT 'SUSPECTED AGENTS' WERE ROUTINELY SUBJECTED TO TORTURE AND OTHER FORMS OF SEVERE ILL-TREATMENT AND THAT THERE WERE CASES WHERE SUCH INDIVIDUALS WERE CHARGED AND CONVICTED BY TRIBUNALS WITHOUT PROPER ATTENTION TO DUE PROCESS BEING AFFORDED THEM, SENTENCED TO DEATH AND EXECUTED. THE COMMISSION FINDS THAT THESE WERE ACTS IN WHICH THE INDIVIDUALS SO AFFECTED HAD THEIR HUMAN RIGHTS GROSSLY VIOLATED. LIKEWISE, THE COMMISSION FINDS THAT THE FAILURE TO COMMUNICATE PROPERLY WITH THE FAMILIES OF SUCH VICTIMS CONSTITUTED CALLOUS AND INSENSITIVE CONDUCT.

THE COMMISSION ALSO FINDS THAT ALL MUTINEERS WHO WERE EXECUTED AFTER CONVICTION BY MILITARY TRIBUNAL, IRRESPECTIVE OF WHETHER THEY WERE AFFORDED PROPER LEGAL REPRESENTATION AND ADEQUATE DUE PROCESS, SUFFERED GROSS VIOLATIONS OF THEIR HUMAN RIGHTS.

WITH REGARD TO ALLEGATIONS OF TORTURE, THE COMMISSION FINDS THAT, ALTHOUGH IT WAS NOT ANC POLICY TO USE TORTURE, THE SECURITY DEPARTMENT OF THE ANC ROUTINELY USED TORTURE TO EXTRACT INFORMATION AND CONFESSIONS FROM THOSE BEING HELD IN CAMPS, PARTICULARLY IN THE PERIOD 1979-89. THE COMMISSION HAS TAKEN NOTE OF THE VARIOUS FORMS OF TORTURE DETAILED IN THE MOTSUENYANE COMMISSION AND FINDS THAT THEY AMOUNTED TO THE DELIBERATE INFILCTION OF PAIN AND/OR SEVERE ILL TREATMENT IN THE FORM OF DETENTION IN SOLITARY CONFINEMENT AND/OR THE DELIBERATE WITHHOLDING OF FOOD AND WATER AND/OR MEDICAL CARE AND, AS SUCH, AMOUNTED TO THE PERPETRATION OF GROSS VIOLATIONS OF HUMAN RIGHTS.

THE COMMISSION FINDS FURTHER THAT ADEQUATE STEPS WERE NOT TAKEN IN GOOD TIME AGAINST THOSE RESPONSIBLE FOR SUCH VIOLATIONS.

## ■ THE PAN AFRICANIST CONGRESS

181 Evidence before the Commission indicates that gross violations of human rights were committed by the PAC in the course of its armed struggle. Formed in 1959 as an Africanist breakaway from the ANC, the involvement of the PAC in the anti-pass law campaign of 1960 led to its banning, together with the ANC, in 1960. Like the ANC, it established an organisational structure in exile and established camps for the military training of members of its armed wing APLA. It engaged in a limited armed struggle which resulted in few human rights violations inside South Africa. It was plagued with internal divisions and leadership conflicts which rendered it ineffective and led to the commission of gross human rights violations against its own members in exile.

### Poqo

182 The establishment of a military wing known as Poqo in September 1961 followed the decision of the PAC to form underground cells and embark on an armed struggle. *Poqo* was established some three months before the formation of MK and was later transformed into APLA in exile.

183 *Poqo*<sup>6</sup> has been interpreted as having been, at least initially, a spontaneous militant 'movement' without clear strategic direction or lines of command.

184 The commission of human rights violations by PAC members began with the activities of Poqo in the early 1960s, whose campaign was to liberate the country with 'traditional weapons'. In the Western Cape townships, in particular in Langa, Poqo militants conducted a house-to-house membership drive. In what became a reign of terror, residents were coerced into 'enlisting' and paying a two shillings and sixpence joining fee. In September 1962, policemen investigating the conscription campaign were attacked by Poqo members. They fired into a crowd, killing one and wounding two others; 133 people were arrested.

185 In the early 1960s, a group of disaffected PAC supporters, the 'Katangese', began operating independently of the PAC constitution and political culture of the PAC, raising concern in the Western Cape regional executive of the organisation. The Katangese soon became the targets of physical attacks, attempted assassinations and group attacks by Poqo gangs armed with pangas and pistols. Poqo gangs

<sup>6</sup> *Poqo* means 'pure' or 'alone' in Xhosa. The name had been used before in the organisation in the translation of Pan Africanist Congress as '*Umbutho wama Afrika Poqo*' (the organisation of Africanists or 'undiluted' or 'pure' Africans), those Africans who wanted to be on their own.

patrolled certain areas in the Langa Zones by night, turning them into “liberated zones” where even the police feared to tread.

- 186 In May 1961, Mr Lamstead Giyose became the first person associated with the Katangese to be assaulted by a group of Poqo men in the course of their conscription campaign. David Mkhuneka, a loyal PAC supporter, was charged for the stabbing. The case was withdrawn when Giyose was informed that he had failed to show up at court on the right day. Giyose said he believed the misunderstanding over the court date was indicative of “some corruption somewhere”.
- 187 Two other Katangese members, Mr Alfred Canca and Mr Ndikho, were shot by Poqo operatives, both sustaining severe injuries. No one was arrested. The first Western Cape PAC regional chairperson, Mr Christopher Mlokoti, survived a shooting attempt on his life. Several other Katangese members were attacked in their hostels by groups of men armed with pangas, sticks and other ‘traditional weapons’; the Katangese put up stiff resistance.
- 188 Poqo also engaged in attacks on South African police in this period. On 17 March 1962, a large group of Poqo operatives attacked a police van in Langa township, killing one African policeman, and injuring five others. The vehicle was set alight and destroyed.
- 189 Two further police men, Sergeant Moyi and Constable Magwaca, were killed in the Langa Zones: Magwaca stabbed to death on 29 July 1962, and Moyi was killed on 26 September, 1962. Magwaca had earned notoriety in the community for his alleged involvement in the beating and harrasment of protesters in the 21 March 1960 demonstrations and in the period following the Langa shootings. He was also perceived to be responsible for sexually abusing women who stayed ‘illegally’ in the Zones while their men were at work.
- 190 The Commission did not receive victim submissions or amnesty applications in connection with the above violations. In its submission to the Commission, the PAC did, however, claim responsibility for the “elimination” of a “notorious Special Branch detective” in Krugersdorp. Four PAC members – Mr Richard Matsaphae, Mr Jos Motsumi, Mr Thomas Molathlegi and Mr Petros Mtshobe – were sentenced to death and hanged in 1963 for this killing.
- 191 Also in 1962, Poqo members engaged in attacks on representatives of traditional authority in the ‘homelands’. On 16 October 1962, headman Gwebindlala Gqoboza

of St Marks district in Cofimvaba, Transkei was killed by Poqo members. In February 1963, headman Jonginamba Deliwe was killed in the same district. He is reported to have encountered local resistance to land rehabilitation measures and to have requested KD Matanzima's intervention.

### **Armed clash at Ntlonze Hill**

*An armed clash took place at Ntlonze Hill on 12 December 1962 when armed Poqo members were intercepted by police while on their way to assassinate Chief Kaiser Matanzima. Seven Poqo members were killed in the encounter and three policemen seriously injured in what could have led to more police fatalities, but for the inability of the Poqo members to use the guns they had obtained from the police. The PAC described the incident as being "aimed at those headmen and chiefs assisting the dispossession of African people through the rural rehabilitation scheme" as well as being "provoked by reports of the brutal torture in Cofimvaba prison of Comrades Makwetu and Kisana".*

*In its submission to the Commission, the PAC claims that "a whole platoon of the SAP threw away their guns. Unfortunately none of our combatants could use them effectively". As this was a military encounter in which both sides were armed, neither the injuries to policemen nor the deaths of the Poqo members can be considered to be gross human rights violations.*

192 Poqo attacks were also directed at whites. In February 1963, five white civilians were killed by Poqo members while sleeping in caravans on the roadside at Mbashe Bridge near Umtata. Twenty-three Poqo members were convicted, sentenced to death and hanged as a consequence. The PAC told the Commission that the incident –

*needs to be understood in the context of the land wars of the time. People were being moved from their plots and their homes without compensation when the new Umtata to Queenstown road was being constructed. It was a purely defensive act.*

193 While the Commission finds that this attack on civilians was a gross violation of human rights, no families of victims of the attack approached the Commission.

194 On 8 February 1963, a white debt-collector was murdered in Langa township, allegedly by Poqo members.

195 On 22 November 1962 at 04h00, about one hundred Poqo members entered the houses of white residents of Paarl, dragged them from their beds and beat them up. Five of the attackers were shot dead by the police. Eighteen-year-old Ms Rencia Vermeulen, a student at a commercial college in Paarl and her friend, twenty-two-year-old Mr Frans Richard, were hacked to death by the Poqo attackers.

196 Poqo supporters also attacked shops in the main street of Paarl, smashing windows and attacking other white residents. The attacks were described by the police as reprisals for arrests made in the Mbekweni location the previous day. These arrests followed the killings of a white shopkeeper, three black women who were found speared to death in a plantation and a black man whose headless body was found floating in the Berg River in Paarl.

197 The Snyman Commission appointed to investigate the Paarl violence highlighted corruption and bad management in the Bantu Administration offices in Paarl and the inhuman treatment meted out to the so-called "Bantus". The PAC told the Commission that the violence in Paarl was directed against "the self-enrichment of a Mr Le Roux who hoarded migrant workers from Eastern Cape in his farm, using them as cheap labour, only giving them food".

198 The only PAC victim statement received by the Commission for this period is in respect of the killing by PAC members of Mr Milton Chumani Nozulu Matshiki [CT00267/WIN] in Paarl in October 1962. He went missing and after two days his decapitated body was found.

199 Mr Morgan Nogaga Gxekwa [AM5686/97] applied for amnesty as a founder member of both Poqo and APLA.

WHILE THE COMMISSION TAKES NOTE OF THE EXPLANATION TENDERED BY THE PAC THAT ITS ACTIVITIES IN THE EARLY 1960S NEED TO BE UNDERSTOOD IN THE CONTEXT OF THE "LAND WARS OF THE TIME", IT NEVERTHELESS FINDS THAT THE PAC AND POQO WERE RESPONSIBLE FOR THE COMMISSION OF GROSS VIOLATIONS OF HUMAN RIGHTS THROUGH ITS (POQO'S) CAMPAIGN TO LIBERATE THE COUNTRY. THIS UNLEASHED A REIGN OF TERROR, PARTICULARLY IN THE WESTERN CAPE TOWNSHIPS. IN THE COURSE OF THIS CAMPAIGN, THE FOLLOWING GROUPS SUFFERED GROSS VIOLATIONS OF THEIR HUMAN RIGHTS:

- MEMBERS OF THE POLICE PARTICULARLY THOSE LIVING IN BLACK TOWNSHIPS;
- THE SO-CALLED KATANGESE, DISSIDENT MEMBERS OF THE PAC WHO OPPOSED THE CAMPAIGN AND WERE SUBJECTED TO PHYSICAL ATTACKS AND ASSASSINATIONS BY OTHER POQO MEMBERS;
- REPRESENTATIVES OF TRADITIONAL AUTHORITY IN THE HOMELANDS, THAT IS, CHIEFS AND HEADMEN;

- WHITE CIVILIANS IN NON-COMBAT SITUATIONS;

THE COMMISSION FINDS PAC ACCOUNTABLE FOR SUCH VIOLATIONS.

200 The 1968 Vila Peri campaign in Mozambique arose from the PAC's alliance with the Mozambique Revolutionary Committee (COREMO), a rival of the Mozambique Liberation Front (FRELIMO). A plan known as *Operation Crusade* aimed to infiltrate a unit of twelve PAC guerrillas into the country in order to establish bases and build armed people's units to prepare for a "protracted people's war". The unit was from the Azanian Armed Forces which had replaced *Poqo*. Their battles with the Portuguese security forces lasted for over a month, mainly around Vila Peri inside Lourenço Marques (Mozambique). Three Portuguese security men, including a Portuguese Intelligence Agency (PIDE) agent, were killed by PAC guerrillas.

201 The Azanian Armed Forces guerrillas were remnants of twelve highly trained and motivated guerrillas under the command of Mr Gerald Kondlo, a graduate of Chinese and Algerian military academies. Seven were killed in what PAC military analysts describe as "one of the fiercest confrontations" between "the forces of liberation and those who defended the oppressive white minority regimes in Southern Africa". The SADF immediately set up an operation known as *Operation Sibasa* to secure areas that could be used as ports of entry by the PAC. Two survived the operation, Mr Enoch Zulu and Mr Zeblon Mokoena. Two others, Mr Oscar Ntoni and Mr Samuel Guma, were wounded and captured. Their fate remains unknown, although they are thought either to have been deported back to South Africa where they were executed or executed by FRELIMO as "counter-revolutionaries". COREMO leader Paulo Gumane, who was apparently in a political rehabilitation camp with them, was reportedly executed by FRELIMO.

202 No victim statements or amnesty applications were received in connection with these acts.

### **1970s and 1980s: Violations committed in the course of the PAC armed struggle in South Africa**

203 The PAC's strategy of a protracted people's war, involving the infiltration of guerrillas into rural areas, resulted in a number of armed confrontations and skirmishes with the security forces. A limited number of armed attacks in townships resulted in injuries or deaths to members of the security forces. Violations committed in the course of armed combat are not considered by the Commission to be gross violations of human rights.

204 In 1978, three APLA insurgents were arrested for establishing an arms cache in Krugersdorp. The following year in Transkei, five APLA guerrillas were arrested. PAC member Mr Abel Sgubhu Dube [AM6040/97] applied for amnesty for gun-running into South Africa via Pietersburg in April 1982.

### ***APLA attacks on security forces***

205 The first APLA attacks to be confirmed as such by the police were four actions attributed to the Alexandra township 'Scorpion Gang' between December 1986 and February 1987, in which two soldiers and two policemen were wounded and a café owner shot dead during a robbery. The three APLA guerrillas involved were killed after a car chase through the Johannesburg suburb of Bramley. Mr Mandla Michael Yende [AM5648/97] applied for amnesty for shooting eleven SADF soldiers with 'scorpion' machine pistols in Alexandra in January 1987. Mr Themba Jack Phikwane [AM6032/97] claims to have killed twenty-five SADF members in Alexandra. Mr Louie Nkululeko Dlova [AM6596/97] injured a member of the SAP with a hand grenade during the 'Lichtenburg Battle'.

206 The PAC's submission also claims that the attack on the Tladi police station, attacks on police in Bramley and various operations in Alexandra township were APLA attacks.

207 APLA journal, *Azanian Combat*, claimed that, in 1987, twelve members of the 'enemy' were killed and sixty-seven others were wounded – casualties of an APLA grenade attack on two municipal police platoons at the Soweto Police Training College. In 1988, a clash between APLA cadres and the police resulted in the death of four APLA members and severe injuries to twelve policemen.

### ***APLA armed robberies and attacks on civilians***

208 In the late 1980s, APLA members engaged in armed robberies. A 'robbery unit' was established as a source of funding for the external and internal wings of APLA. APLA members engaged in armed robberies in the 1980s and early 1990. At some point, guerrillas engaged in such acts were named 'repossession units' and their actions were justified politically by the PAC as part of a strategy to repossess land taken by 'settlers'. APLA units were instructed to obtain the necessary weapons and goods for subsistence, by robbery if necessary. An APLA commander also explained to the Commission the complex motivations for conducting such operations:

*The family in the house you have been concealed in suddenly speculates about the money you are supposed to have brought with you which they thought had like a manna from heaven suddenly brought their economic woes to an end. They thought we were being paid like the SADF soldiers and we had to be explaining things. When they learnt we were not going to resolve their economic problems they then started to advise us on the targets, which were butcheries, grocery shops, and so on. In the mid and late 80s we lost more comrades in armed robberies than in actual armed confrontation with the enemy forces.*

*Under the circumstances we just had to establish a unit that was going to specialise on robberies – even though we knew we were not getting all the loot but at least we managed to operate effectively. The rest of the cadres would engage in fighting because it had become clear we could no longer expect those who were making money, mainly for themselves and partly for the struggle, to want to die in operations that did not involve ‘repossession’. Undisciplined cadres who did not follow the general command to operate from the countryside fell victims of the problems we faced mainly in the towns where these comrades preferred to be at.*

209 The Commission received amnesty applications from Mr Barowsky Phumelele Masilela [AM3146/96] for an armed robbery in Springs in 1988 in which one person was injured; from Mr Lucky Clement Luthuli [AM3435/96] for the killing and robbing of Mr Lucas Botha in April 1987 in Durban with the intention of obtaining firearms and money and from Mr Lefu John Molati [AM2092/96] for an attack in February 1989 in which Mr Johannes Hermanus Boonzaaier was shot and killed, his wife Ms Mercia Maureen Boonzaaier assaulted and the couple robbed of their bakkie.

THE COMMISSION FINDS THAT THE TARGETING OF CIVILIANS FOR KILLING WAS NOT ONLY A GROSS VIOLATION OF THE HUMAN RIGHTS OF THOSE AFFECTED BUT A VIOLATION OF INTERNATIONAL HUMANITARIAN LAW. THE COMMISSION NOTES BUT REJECTS THE PAC'S EXPLANATION THAT ITS KILLING OF WHITE FARMERS CONSTITUTED ACTS OF WAR FOR WHICH IT HAS NO REGRETS AND APOLOGIES. TO THE CONTRARY, THE COMMISSION FINDS PAC ACTION DIRECTED TOWARDS BOTH CIVILIANS AND WHITES TO HAVE BEEN A GROSS VIOLATION OF HUMAN RIGHTS FOR WHICH THE PAC AND APLA LEADERSHIP ARE HELD TO BE MORALLY AND POLITICALLY RESPONSIBLE AND ACCOUNTABLE.

#### ***Violations committed by the PAC within its own ranks***

210 The PAC did not have a security division responsible for dealing with suspected dissidents or infiltrators. Violations that occurred within the ranks of the PAC in

exile were largely the result of divisions within the PAC leadership, within the military command structure and between APLA members. Evidence before the Commission shows that many such violations took place in the military camps in Tanzania. There are, however, no amnesty applications in connection with these violations, and few victim statements from people who allege to have been mistreated by the PAC in exile.

- 211 The Commission received statements from families of people who went "missing in exile", cases for which the PAC was allegedly responsible. They include the cases of Mr Welcome Mncedisi Sabatana [EC0016/96ELN], Mr Mlungisi Michael Mpondo [CT00293/FLA], Mr Edward Tsaitsei Makgato [JB04016/02NPLTM], Mr Goodman Manyana Phiri [JB04241/01GTSOW], Mr Gilbert Nkoane [CT04203/KIM] and Mr Sizwe Douglas Mazungula [EC0098/96TSI].
- 212 Other recorded cases of killing and attempted killing of PAC cadres, allegedly perpetrated by the PAC, include the following. A cadre known as 'Mahoyi' was killed in Tanzania on charges of being loyal to the Azanian People's Revolutionary Party (APRP) and thereby "destabilising" the PAC. A military cadre known as 'Chaka' was killed in the PAC bush camp in Chunya by the PAC high command. He had stolen a pistol during his military training in Guinea. Mr Cohen Ntuli was also killed in the PAC camps during this period.
- 213 PAC president Potlako Leballo alleged that, in March 1980, about seven of his supporters were killed and that more than 500 PAC members, still loyal to him, including members of the high command, were in detention in PAC camps.
- 214 Sections 1.4 and 1.5 of the PAC's Disciplinary Code provided constitutional justification for the way in which political dissent was handled by the PAC leadership in exile. The section on factionalism states:

*Where normal processes of free discussion fail to curb factional tendencies, then firm iron discipline should come into play, and factional elements, no matter how important, should be chopped off without ceremony.*

- 215 An ex-APLA commander said in an interview that, during the 1980s:

*Constant vicious beatings and floggings of cadres who did not conform to the new militarist discipline replaced the more democratic culture which respected the human rights of the individual APLA soldiers. Members of the*

*Military Commission did not only turn a blind eye to these abuses but are reported to have actually condoned them.*

216 In the manuscript of a book that was to have been published in 1985<sup>7</sup>, former PAC director of Foreign Affairs Henry Isaacs alleged:

*More persons were murdered in factional strife in the four years under [PAC president John Nyathi] Pokela than in seventeen years under [PAC president Potlako] Leballo. Between June 1982 and January 1985 at least six persons were murdered, their physical elimination sanctioned or condoned by the PAC leaders who accused them or suspected them of being 'dissidents'.*

217 Isaacs also refers to an incident in the Chunya camp when supporters of ousted PAC president Potlako Leballo mutinied and seven of them were killed by the Tanzanian People's Defence Force (TPDF). He mentions several floggings performed by the APLA high command, confirmed by other sources.

218 Isaacs' claims are viewed with suspicion by some PAC members, including victims of abuse he refers to in his manuscript. He is accused of having deliberately mixed cases of PAC cadres who died in genuine accidents with cases of abuse of human rights.

219 The PAC stated in its submission to the Commission's hearing on the armed forces that:

*We have never had a single detention camp, prison or any form of institution that was employed to violate members' human rights. No single individual can genuinely claim any experience of systematic torture, abuse or detention in any of our facilities or camps. (Brigadier Dan Mofokeng).*

220 The PAC accounted for the deaths of Mncedisi Sabatana and others by classifying them as "disciplinary actions". APLA commander, Brigadier Mofokeng said:

*While we regret any loss of life as a result of our disciplinary actions, we, however, still remain proud that all the disciplinary actions that were taken fell within the confines of our disciplinary code and oath of allegiance.*

<sup>7</sup> South Africa's Pan Africanist Congress in the 80s: Chronic Instability And Revolutionary Ineffectiveness

221 The death of Sabatana, in particular, is categorised as an execution and is justified as follows<sup>8</sup>:

*A limited number of APLA members were executed, mostly for acts of destabilisation and mutiny. These members were executed by orders of the APLA commander who, in his own capacity, determined the individual who had to perform the task.*

222 Brigadier D Mofokeng committed the PAC to presenting the Commission with a list of those APLA members who were executed. This was not received.

223 The PAC was also responsible for some violations against its own members inside South Africa after 1990. Mr Mduduzi Ngema [AM3681/96] applied for amnesty for the assassination of an APLA member who was alleged to be a police informer. Mr Malusi Morrisson [AM3681/96] applied for amnesty for abducting APLA spies and handing them over to the 'APLA Interrogation Unit' in Umtata.

224 The Commission received a statement from Ms Vuyiswa Zola Ngendane [JB05364/02NPPTB] who alleged that her father Mr Selby Temba Ngendane was shot and killed by several balaclava-clad PAC gunmen outside his Northcrest house in Umtata on 4 October 1990. Ngendane was a founder member of the PAC National Executive Committee in April 1959 and secretary for foreign affairs. In 1963, he was sentenced to six years on two counts of leaving the country illegally. He gave evidence at the 'Bethal 18' trial of PAC and black consciousness leaders. He was a member of a London-based Sobukwe Forum which contested the legitimacy of the Dar es Salaam-based PAC Central Committee. Circumstantial evidence points to an assassination by PAC members.

225 The PAC's armed struggle continued after its legalisation in February 1990 and APLA – which had up to that time managed very few attacks within South Africa – secured bases in the Transkei from which they conducted a series of attacks on civilian targets between 1992 and 1994. On 16 January 1994, the PAC announced it had suspended the armed struggle.

THE COMMISSION FINDS THAT A NUMBER OF PAC MEMBERS WERE EXTRA-JUDICIALLY KILLED IN EXILE, PARTICULARLY IN CAMPS IN TANZANIA BY APLA CADRES ACTING ON THE INSTRUCTIONS OF ITS HIGH COMMAND. IT FINDS THAT MEMBERS INSIDE THE COUNTRY BRANDIED AS INFORMERS OR AGENTS AND THOSE WHO OPPOSED PAC POLICIES WERE ALSO KILLED. ALL SUCH ACTIONS CONSTITUTED INSTANCES OF GROSS VIOLATIONS OF HUMAN RIGHTS FOR WHICH THE PAC AND APLA ARE HELD TO BE RESPONSIBLE AND ACCOUNTABLE.

<sup>8</sup> *ibid*, p 30

## ■ THE AZANIAN NATIONAL LIBERATION ARMY

226 No evidence was presented to the Commission that the military operations of the Azanian National Liberation Army (AZANLA), the armed wing of the Black Consciousness Movement of Azania, resulted in any gross violations of human rights. The exception is a case of abduction, for which the member responsible applied for amnesty. The person convicted of this act kidnapped two civilians in order to ensure their safety when he burned down the petrol station. No harm was caused to the civilians (or to any other person). Mr Mzwandile Nkwenkwe Alfred Madela, [AM0038/96] and Mr Andile Samuel Katiso Solo [AM0193] applied for amnesty.

### **Violations in exile**

227 The Commission received no human rights violation statements in respect of members of AZANLA killed in exile by fellow members. However, there was a mutiny in the AZANLA camp at the Dukwe refugee settlement in Botswana in late 1978. The Commission was told that mutiny resulted from –

*concern that for routine offences they received severe punishment including food cuts, caning, detention and exposure to cold weather after being soaked in cold water, while those who committed offences which merited court martial were left untouched.*

228 At least two AZANLA members – Mr Tsakana Seepa and Mr Sizwe Dlamini – were shot dead. Botswana police found the decomposed bodies, seized firearms and arrested about fourteen AZANLA personnel in October 1990. Those arrested were charged variously with conspiracy to murder, murder, unlawful burial of two other members of the Black Consciousness Movement (BCM) and unlawful possession of arms of war. Those charged with murder were acquitted.

## ■ THE MASS DEMOCRATIC MOVEMENT

229 The mass democratic movement (MDM) consisted of different organisations at different times, with different types of membership and decision-making structures. The movement had thousands if not millions of supporters who were not part of any formal organisational structures. Holding individuals or organisational leadership accountable for specific acts is therefore much more difficult than in the case of liberation movements, which formally adopted military strategies and

had clear chains of command for the carrying out of military operations. During the 1980s, however, most organisations were affiliated or claimed allegiance to the United Democratic Front (UDF), whose former leadership made a submission to the Commission, and in respect of whom the following finding was made:

THE COMMISSION ACKNOWLEDGES THAT IT WAS NOT THE POLICY OF THE UDF TO ATTACK AND KILL POLITICAL OPPONENTS BUT THAT, IN THE CONTEXT OF WIDESPREAD STATE-SPONSORED OR DIRECTED VIOLENCE AND A CLIMATE OF POLITICAL INTOLERANCE, MEMBERS AND SUPPORTERS OF UDF AFFILIATE ORGANISATIONS OFTEN COMMITTED GROSS VIOLATIONS OF HUMAN RIGHTS.

THE UDF FACILITATED THE COMMISSION OF SUCH GROSS VIOLATIONS OF HUMAN RIGHTS IN THAT LEADERS, OFFICE-BEARERS AND MEMBERS OF THE UDF ACTED IN A MANNER, THROUGH THEIR CAMPAIGNS, PUBLIC STATEMENTS AND SPEECHES WHICH HELPED CREATE A CLIMATE IN WHICH MEMBERS OF ORGANISATIONS AFFILIATED TO THE UDF BELIEVED THEY WERE MORALLY JUSTIFIED IN TAKING UNLAWFUL ACTION AGAINST STATE STRUCTURES, INDIVIDUAL MEMBERS OF STATE ORGANISATIONS AND PERSONS PERCEIVED AS SUPPORTERS OF THE STATE AND ITS STRUCTURES.

FURTHER, IN ITS ENDORSEMENT AND PROMOTION OF SLOGANS, SONGS AND THE 'TOYI-TOYI' THAT ENCOURAGED AND/OR EULOGISED VIOLENT ACTIONS, THE UDF CREATED A CLIMATE IN WHICH SUCH ACTIONS WERE SEEN TO BE LEGITIMATED. INASMUCH AS THE STATE IS HELD ACCOUNTABLE FOR THE USE OF LANGUAGE IN SPEECHES AND SLOGANS, SO TOO MUST THE MASS DEMOCRATIC MOVEMENTS BE ACCOUNTABLE.

THE COMMISSION FINDS THAT FACTORS REFERRED TO IN THE PARAGRAPH ABOVE LED TO WIDESPREAD EXCESSES, ABUSES AND GROSS VIOLATIONS OF HUMAN RIGHTS BEING COMMITTED BY SUPPORTERS AND MEMBERS OF ORGANISATIONS AFFILIATED TO THE UDF INCLUDING:

- THE KILLINGS (OFTEN BY MEANS OF 'NECKLACING'), ATTEMPTED KILLINGS, AND SEVERE ILL TREATMENT OF POLITICAL OPPONENTS, MEMBERS OF STATE STRUCTURES SUCH AS BLACK LOCAL AUTHORITIES AND THE SOUTH AFRICAN POLICE, AND THE BURNING AND DESTRUCTION OF HOMES AND PROPERTIES;
- THE VIOLENT ENFORCEMENT OF WORKER STAY AWAYS AND BOYCOTTS OF, *INTER ALIA*, PRIVATE AND PUBLIC TRANSPORT AND PRIVATE RETAIL SHOPS LEADING TO KILLING, ATTEMPTED KILLING AND SEVERE ILL TREATMENT.
- POLITICAL INTOLERANCE RESULTING IN VIOLENT INTER-ORGANISATIONAL CONFLICT WITH, *INTER ALIA*, AZAPO AND THE IFP.

#### THE UDF AND ITS LEADERSHIP

- FAILED TO EXERT THE POLITICAL AND MORAL AUTHORITY AVAILABLE TO IT TO STOP SUCH PRACTICES OUTLINED ABOVE, DESPITE THE FACT THAT SUCH PRACTICES WERE FREQUENTLY ASSOCIATED WITH OFFICIAL UDF CAMPAIGNS SUCH AS CONSUMER BOYCOTTS ON ANTI-BLACK LOCAL AUTHORITY CAMPAIGNS. IN PARTICULAR, THE UDF AND ITS LEADERSHIP FAILED TO USE THE FULL EXTENT OF SUCH AUTHORITY TO END THE PRACTICE OF NECKLACING, COMMITTED IN MANY INSTANCES BY ITS MEMBERS OR SUPPORTERS.

- FAILED TO TAKE APPROPRIATELY STRONG OR ROBUST STEPS OR MEASURES TO PREVENT, DISCOURAGE, RESTRAIN AND INHIBIT ITS AFFILIATES AND SUPPORTERS FROM BECOMING INVOLVED IN ACTION LEADING TO GROSS VIOLATIONS OF HUMAN RIGHTS, AS DESCRIBED ABOVE.
- FAILED TO SANCTION OR DISCIPLINE MEMBER ORGANISATIONS WHOSE MEMBERS WERE INVOLVED IN GROSS VIOLATIONS OF HUMAN RIGHTS DESCRIBED ABOVE, OR TO ENCOURAGE ITS MEMBER ORGANISATIONS TO TAKE APPROPRIATE ACTIONS AGAINST THEIR MEMBERS.

THE COMMISSION NOTES THAT THE POLITICAL LEADERSHIP OF THE UDF HAS ACCEPTED POLITICAL AND MORAL RESPONSIBILITY FOR THE ACTIONS OF ITS MEMBERS. ACCORDINGLY, THE UDF IS ACCOUNTABLE FOR THE GROSS VIOLATION OF HUMAN RIGHTS COMMITTED IN ITS NAME AND COMMITTED AS A CONSEQUENCE OF ITS FAILURE TO TAKE THE STEPS REFERRED TO ABOVE.

- 230 The association of the MDM with commission of gross violations of human rights can be divided into two broad areas. First, violations occurred as a result of organised non-violent confrontations with the state, termed 'mass action'. This includes mass protests such as marches, stay aways and consumer boycotts directed at crippling state machinery, as well as clashes among township residents. The latter was not always exclusive of the former as, in many incidents, security forces were alleged to have a hidden hand in the violent political conflicts in the townships. Nevertheless, people participating in protest actions were themselves sometimes perpetrators of human rights violations where, for example, they killed people found contravening popular decisions relating to consumer boycotts or strike actions.
- 231 Second, a number of violations was committed by participants in campaigns. Such violations include direct attacks on government bodies and agents such as community councillors, security forces, *kitskonstabels* (special constables) and municipal police and those perceived to be, or associated with, informers.
- 232 Few rank and file members of the mass movements had access to the written propaganda produced by the ANC and SACP in exile. Publications such as *Mayibuye*, *Sechaba*, *African Communist*, *Forward!*, *Dawn* and *Umsebenzi* were all banned for possession and distribution in South Africa. In any case, the ANC's limited underground structures meant that distribution was limited. *Radio Freedom* was more accessible, but only to those who had short-wave radios or lived in areas where reception was good. By far the most widespread means of communicating propaganda was through the speeches, slogans and songs.
- 233 The use of slogans was effective in mobilising people for action, often in undisciplined ways. Where chants and songs were militaristic, they often had the

effect of stimulating crowds to take action, to 'play their part in the struggle'. Individuals associated with the former state frequently became targets for attack.

## Crowd violence

234 During the schools uprising of 1976, some individuals were identified as 'sell-outs' and became vulnerable to attacks. In October 1976 Mr Mshicelle Samuel Sokoyi [CT01045] was shot in his right leg when a group of men attacked his shop and a Special Branch policeman, Pieter Schoeman [CT01045/FLA], in Gugulethu. A month later, after he identified one of the attackers to the police, a mob attacked him. He was stabbed in the back, stoned and his car and furniture were set alight and destroyed.

235 A similar attack took place in Soweto in the early stages of student resistance. Dr Melville Leonard Edelstein [JB00786/01GTSOW], who was killed by student protesters during the Soweto uprising, was the Chief Welfare Officer with the West Rand Bantu Administration Board (WRBAB). The WRBAB, its staff and its property were perceived to be instruments of oppression and were the targets of attacks by the students.

### ***Violations committed during schools boycotts, workers' strikes, etc.***

236 During the 1970s and 1980s, boycotting students threw stones, petrol bombs and hand grenades at the houses of several school principals who opposed school boycotts and who were therefore seen to be 'collaborators' with the government. Similar confrontations took place during worker strikes in the 1980s.

237 In these circumstances, it was often assumed that people found killed were victims of strike actions. An example of this occurred in September 1986 when Mr Johannes Witbooi [EC1526/97NWC] was killed by unknown people while on his way to work at the time of a strike at the Cradock Wrought Iron Factory. According to the testimony of his wife, Ms Selina Witbooi, Johannes Witbooi's hands and feet were tied with barbed wire and his upper body partly burnt. He also had a wound around his neck. She suspected that he had been killed by fellow workers. The Commission was unable to conclude whether the deceased was attacked by his fellow workers who were on strike or was a victim of criminal elements.

### ***Violations committed during mass protests and marches***

238 The frequency of massacres increased dramatically in the late 1980s. A vicious cycle of political violence resulted when police used tough measures to stop mass protest actions. Victims and witnesses of incidents often claimed security force participation, although this was not always visible. An example of this is when Mr Peter Sithole [JB02330/01GTSOW] and twenty-five other commuters were hacked to death in the September 1990 train massacre at Benrose station. The deponent in the case said that white men who had covered their faces with a black substance participated in the massacre.

239 The large number of deaths that occurred in the early 1990s are dealt with elsewhere in this report.

### ***Consumer Boycotts***

240 In the mid-1980s, community organisations called for consumer boycotts to support national and local political demands. The boycotts targeted mainly white-owned businesses, but spread to include businesses owned by people perceived to be 'collaborators', such as black businesspersons who participated in the government established local authorities.

241 Militant youth often took it upon themselves to monitor and enforce boycotts. In some cases, people seen defying the boycott call were punished by being made to eat inedible purchases such as detergents, raw food and to drink cooking oil. Some were killed. For example, Ms Nontina Matyumza [CT01857/97ALB] died after she was force-fed washing powder at her home at Esileyini location, Port Alfred in May 1985. Her daughter, Ms Nombeko Matyumza, testified that her mother bought liquor at a time when the community had decided that all *shebeens* in Port Alfred should be closed in the early evenings. Comrades forced Nontima Matyumza and her husband to eat Omo washing powder. She died the following day.

242 The former UDF leadership admitted in its submission that there were cases of this nature. The UDF told the Commission that they were diversions from its policies and therefore aberrations and that such incidents were perpetrated by unaligned and uncontrollable youth:

*When we were taken into prisons they were left without leadership and many of them, angry even at our arrest, did things which were irrational.*

### **Rent boycotts**

243 The first recorded rent boycott was undertaken by residents of Vaal Triangle and Evaton in September 1984, in protest against increases that were apparently the highest of all black townships in the country. This form of protest spread to other parts of the country. In some communities, the strategy resulted in divisions among local residents and put the lives of community councillors and others at risk. For example, in August 1991, Mr Solomon Ramahase Motlohi [KZN/TIS/003/BL], a rent collector, was severely beaten in Botshabelo, allegedly by young ANC members. There was a rent boycott and Motlohi was targeted because he encouraged people to pay rent at street-committee meetings. Youths took him from his office to a house where he was assaulted. He died on the way to hospital.

### **Mass campaigns**

244 The MDM initiated and implemented a number of campaigns with the objective of politicising the masses. While some mass campaigns proceeded relatively smoothly, others were marred by violent outbreaks and casualties.

245 In its submission to the Commission, the former UDF leadership recognised that the campaigns had:

*unintended consequences [which] could in some instances fall within the definition of gross violations of human rights such as assaults, loss of life and causing extreme fear among perceived and real opponents of the struggle for freedom and democracy.*

### ***Anti-Black Local Authorities Campaign (Anti-BLA)***

246 The campaign to destroy black local authorities was one which resulted in such "unintended consequences".

247 Community councils were established in 1977 to replace the former Urban Bantu Councils (UBCs). The Community Councils' powers were expanded in 1982 (under the Black Local Authorities Act) to include the allocation of housing, business licenses, business sites, student bursaries and the collection of rents. Elections under the expanded powers were held in November 1983 amid vigorous anti-election campaigns, led by the UDF, the Azanian People's Organisation (AZAPO) and other organisations. Election candidates and elected community councillors

were subjected to attacks on their homes, mainly in the form of petrol bombings. In 1984, thirty such petrol bomb attacks were reported.

- 248 Another source of contention was the abuse of the *makgotla* (community courts). These often became institutions of abuse, corruption and victimisation of residents. In June 1976, "five youths and a woman had to receive hospital treatment ... after being flogged by three *lekgotla* (court) members for breaking school windows". In some cases, *makgotla* took the form of vigilante groupings.
- 249 The legislation made provision for community guards who were also responsible for assaulting residents, allegedly under the guidance and protection of community councillors. In March 1980 community councillor Mr David Thebehali's "All Nations Guard" in Soweto, was reported to have assaulted people.
- 250 Councillors came under violent attack. For example, Mr Caeser Motjeane [JB 03870/01GTSOW] a community councillor at Sebokeng Zone 11, was stoned, hacked, shot and burned to death by alleged members of the UDF on 3 September 1984. Ms Maud Motjeane, his wife, claims that they had previously been assaulted by a mob. The family property was looted and burned.
- 251 By April 1895, twelve councillors had been killed and many councillors began to heed the call for their resignation. By May 1985, 197 community councillors had resigned from sixty town councils and many local authorities had collapsed.
- 252 In some areas, attacks on community councillors provoked organised resistance by councillors. For example, from October 1985, councillors in Phillipstown organised their own resistance force against residents. Clashes between this group and other residents resulted in assaults, destruction of property and even death. Police were allegedly colluding with the councillors in orchestrating attacks against residents.

#### ***Building "People's Organs for People's Power"***

- 253 The campaign to build 'People's Organs for People's Power' was introduced in early 1986. Following the collapse of government-created structures such as Community Councils, residents started forming alternative structures such as street committees, area committees, people's courts, school committees, residents associations and amabutho. The UDF told the Commission that, although this was not an official UDF official campaign, it was nevertheless encouraged in publications and public speeches.

254 In some cases, these structures enabled local community leaders to assert some control over the youth militia or *amabutho* in a particular area while, in some areas, the crime rate dropped dramatically as street and area committees were established. However, in other cases, youth militia, and in certain cases criminal elements, took control of such structures. Clashes between old and new structures became inevitable – resulting in some cases in vigilantism, sometimes assisted by the security forces. The violent conflict in KwaNobuhle, Uitenhage in 1987-1989 and the witdoeke vigilantes from KTC and Crossroads are examples of this development.

255 Like other campaigns that had “unintended consequences”, the new ‘people’s organs’ were sometimes involved in gross violations of human rights. In some townships, street committees and people’s courts became notorious for flogging and beating alleged ‘offenders’; some were even necklaced.

256 Ms Nosipho Zamela [EC2757/97QTN], a student at the time of her death, was necklaced by unknown street committee members in Mlungisi Township, Queenstown on 8 December 1985. ‘Comrades’ accused Zamela of being involved with the security police and therefore an informer. In another example, Ms Ntombizodwa Skade [EC1120/96ELN], a street committee member, was assaulted all over her body with sticks by fellow street committee members in Duncan Village, East London during October 1991 because she opposed their involving themselves in marital disputes. She sustained a broken jaw and fingers.

257 The UDF conceded that its “affiliates and progressive service organisations” were unable to render adequate political training to these structures and they became problematic. It pointed, however, to some positive effects of ‘people’s organs’ on local communities:

*For instance, at some point in time in the Eastern Cape ... shebeens were seen to be sources of violence and rapes and sometimes even murders and there was an instruction from Residents’ Associations to close them at nine,... Amabutho monitored that situation and reported to the street committees and area committees ...*

### **Campaign against Vigilantes, Kitskonstabels<sup>9</sup> and Municipal Police**

258 Campaigns against the police in the mid-1980s aimed either at forcing black police to resign or evicting them from the townships. With the rise of vigilantism

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<sup>9</sup> Direct translation – Instant constables, also known as “special constables”, were recruited as police constables, hastily trained and sent back to townships as supportive arm of security forces. They carried rifles and wore blue uniforms which gave them the name “blue flies”. Municipal police were called “green flies” because of their green uniforms. In some areas they were called Inkatha.

in the mid-1980s and the deployment of *kitskonstabels* and municipal police, a campaign to resist the growing brutality of the police began. The campaign was aimed at *kitskonstabels*, municipal police and SAP members residing in townships.

259 Mr Mtutuzeli Stewart Ndziweni [EC0515/96ALB], a municipal police member, became a victim of the campaign. Ndziweni joined the municipal police in January 1986. On 27 July 1986, he went to Adelaide township with his friends. After several drinks they proceeded to a soccer field where there were youths. They fired at the youths killing at least one. The other youths gave chase and, when they caught Ndziweni, they stabbed and stoned him to death. He was buried in Bedford after threats by community members that they would dig up the grave and damage the body.

260 In another example, Mr Thembekile Eric Mbenenge [EC0494/96ALB] was shot in the stomach while at a soccer match at Newtown, Adelaide on 27 July 1986. He was taken to Cecilia Makiwane Hospital in Mdantsane where he subsequently died. The incident took place at the time when there was confrontation between the police and members of Adelaide community. Another youth was shot dead and two others were injured during the confrontation.

261 During the states of emergency that were in force from 1985 until 1990, the SAP had wide powers that were open to abuse. Black police members were not only expected to perform their normal duties as police, but also to work as “intelligence gatherers”, a role equal to that of an informer. Some of the youthful *kitskonstabels* were formerly leading members of political organisations in their communities and, after their six weeks training course, were deployed back to patrol in their respective communities.

262 On the evening of 2 February 1987 a *kitskonstabel* stormed the house of Ms Jane Mantile and Mr Johnson Mantile [EC0516/96ALB] in Grahamstown. He entered the kitchen and shot Jane Mantile in the heart, then to the bedroom where he shot Johnson Mantile in the forehead. Both died instantly. During a court case in the Grahamstown Supreme Court, the perpetrator confessed to being drunk that day. He was convicted and sentenced to two years’ imprisonment.

263 On 7 July 1987, UDF member and prominent community leader Reverend Boy Jantjies [EC1391/96KAR] died instantly after he was shot in the chest, stomach, scrotum and head by a *kitskonstabel* in Thembalesizwe location, Aberdeen. At about 19h00 that evening, Jantjies heard screams and found seven *kitskonstabels* assaulting two youths with their guns. The youths’ hands were handcuffed to their legs. Together with police, the *kitskonstabels* were forcing the youths

towards the house of a neighbouring police sergeant. Jantjies arrived at the house and intervened. A police constable ordered another constable to shoot Jantjies. The policeman shot him four times.

264 As a result of strong feeling against them, a number of police were forced to resign or were killed. Some had to abandon their houses in the townships for white suburbs. For example, Ms Nokuzola Carol-Anne Fulani [EC0291/96UIT] told the Commission that her husband, who was employed as a member of the SAP from 1978, was attacked on 28 April 1985 when a group of 'comrades' arrived at their house. A shot went off which struck her husband's right foot. The couple were taken to a house in the Soweto township of Port Elizabeth where her husband was interrogated for his refusal to allow tobacco to be given to an inmate at the KwaZakhele Police Station. On the following day, Fulani was taken to have a look at her husband for the "last time". He was then burned to death with petrol. According to Ms Fulani, a vote was taken on whether to burn her. Fulani, six months pregnant at the time, was held for a week; transported to and from work and only taken to her house to fetch fresh clothing. She was also ordered not to tell anyone about the incident. She nevertheless reported the matter to the police. Six people were later arrested, convicted and found guilty.

#### ***Attacks on 'Informers'***

265 People perceived to be informers were targets of attacks by community residents. Methods of attack included burning and necklacing, as well as beating, stabbing, shooting, sexual assault.

266 As part of the state's counter-revolutionary strategy, security forces were supported by thousands of informants and agents, especially in the 1980s. A large number of people who were assaulted in police custody in the 1980s claim that police wanted them to become informers. Evidence before the Commission shows that this was a widespread phenomenon and had, indeed, begun during the 1976 schools uprisings. Some individuals could not resist the pressure from police, succumbed and became police informers. Informers became particularly vulnerable to attack in local communities.

267 There are very few amnesty applications relating to attacks or the killing of informers, except where their handlers were responsible. Mr Mnyamana Daliwe [EC0075/96SBR] was a municipal worker in Cathcart at the time of his death. On 14 November 1985 he was abducted, assaulted, stabbed and burned to

death at Old Location in Cathcart. He was accused of being an informer after he allegedly bought liquor during a consumer boycott.

268 Ms Kefilwe Esther Mokale told the Commission that she was informed by her son, Mr Sipho Sydney Eugene Mokale [JB02230/03WR] that he had been approached by a Sergeant Hattingh to help them with police work. Mokale was later seen travelling around Mohlakeng in police cars. During November 1985, Mokale was dragged from his home, allegedly by 'comrades', severely assaulted and burned to death in Mohlakeng.

269 On 2 September 1985, Mr Mzuzile Siqubethu [EC0991/96CCK] was necklaced by residents of Duncan Village. Siqubethu's brother, Sipho, claims that he was suspected of being an informer because he had previously worked as a tea-maker at Cambridge police station in East London. At the time of his death he was a driver at Grosvenor Ford.

270 Ms Lungelwa Madubedube [EC0312/96QTN] was necklaced to death in Queenstown on 10 January 1986 on suspicion of being an informer. Her father, Mr Sivuyile Gordon Madubedube had previously resigned from being a councillor. Ms Nozibele Nqweniso, Lungelwa's sister, testified that Lungelwa was active in local political organisations and opposed the council system.

### **Types of gross human rights violations by mass movements**

#### ***Burning and the 'necklace'***

271 In general, the violations perpetrated by supporters of the mass opposition movement in South Africa involved the attacking of vehicles and buildings with stones and petrol-bombs, stones, sticks and knives. It was only from the mid-1980s that people had access to more sophisticated weapons such as hand grenades and firearms. However, what distinguished South Africa from elsewhere was the killing of people by burning.

272 Except for a few cases discussed below, until 1977 the main target of arson attacks was government property such as Bantu Administration offices, school buildings, rent offices, beer halls and other government-related buildings. This was particularly so during the anti-pass campaign in 1960, the 1976 students' protests and the 1980 schools boycotts.

273 A new concept was added to the vocabulary of the resistance struggle in South Africa from the mid-1980s – the ‘necklace’ method of killing. In addition, when the government introduced community councils in African townships, houses belonging to those associated with the council system became targets of petrol bomb attacks. The first case of death by burning recorded in the Commission’s data base took place in Crossroads, Cape Town in April 1983.

274 It is believed that the necklace method of killing originated from the Eastern Cape in early 1985. On 23 March 1985 in KwaNobuhle Uitenhage, police shot and killed twenty-one people. Angry residents retaliated by necklacing a staunch community councillor and his three sons. Thereafter, every known house of a policeman and informer was attacked and burned. The necklacing method subsequently spread to other areas of the country.

275 Tyres and petrol were easily available in most townships. Many victims of the necklace method of killing were already dead by the time their bodies were burned. Burning was also used by the police to cover up killings. Well known cases are those of the PEBCO Three and Cradock Four (See Volume Three).

276 The Commission heard that, in some townships, ‘comrades’ attempted to prevent the burial of victims before the bodies had been burnt. For example, community councillor Mr Archibald Siqaza [CT01340/FLA] was burned to death on 26 December 1985 in Crossroads. His son, Mandla Siqaza, told the Commission that the family buried the body very early in the morning. ‘Comrades’ attempted to prevent the burial and, within a month, the body had been exhumed by the ‘comrades’.

277 While initial cases of necklace murders were clearly targeted at suspected ‘collaborators’ and ‘informers’, as the years progressed, targets became blurred. Political activists also became targets of burning by either petrol bombs and/or tyres.

278 From evidence before the Commission, it appears that the burning of a body was a sign of contempt for the victim and his/her deeds. No act could convey a deeper sense of hatred and disrespect. The practice was also used to make an example of the victim, so that others would be inhibited from behaving like the deceased. Burning a body could also remove traces of evidence of the killing. In some cases, the practice of burning a body was used to disguise criminal murders as political killings. In other cases, criminals themselves were targets of

necklacing as they were seen as vulnerable for recruitment as police spies.

279 The responsibility for burning and necklace killings can be attributed to a number of individuals and groups. The nature of the responsibility ranges from failure to condemn, to verbal encouragement to the commission of the act itself.

280 The following statistics reflect the extent of reported deaths related to political violence and those resulting from burning and necklace killings for the years 1984 to 1989. The figures in brackets are the numbers captured on the Commission database.

### **Deaths related to political violence and to necklace/burnings<sup>10</sup>**

Year	Total political violence deaths	Necklace/burning
1984	175 (164)	3 (3)
1985	922 (636)	67 (28)
1986	1352 (834)	306 (84)
1987	706 (361)	19 (35)
1988	1149 (401)	10 (20)
1989	1403 (474)	(21)
<b>TOTAL</b>	<b>5 707 (2 870)</b>	<b>+/- 700 (191)</b>

281 The table indicates that, except in 1986, the number of people whose deaths were associated with burning is far lower than the total number of people who died in each year between 1984 and 1989. Despite higher figures of burning and necklacing in 1987 (35) and 1988 (20) reflected on the Commission's database compared to figures from secondary sources (19 and 20 respectively), the trend is similar. Thus, it seems that incidents of burnings and necklace reached a peak in 1986. The database suggests, however, that the number rose again in 1990.

282 During the Pondoland revolt, at least eight chiefs and their councillors were killed and their huts were burned. Some people burned to death inside their houses. The headmen and chiefs were seen to be collaborating with the government in implementing new government policies, high taxation and conservation measures. They were often suspected of being involved in corruption such as bribery.

283 In the 1980s, people serving in institutions of government were labelled as 'collaborators', especially if they did not heed the call to resign. Community councillors and security forces fell into this category.

<sup>10</sup> Sources include: Indicator Project of South Africa (Ipsa), South African Institute of Race Relations (SAIRR), figures by the minister of Law and Order and SAP files. Not all figures from secondary sources are accurate. The highest figures have been taken in each instance and calculations have been made based on information from a combination of sources.

284 Relatives and/or people associated with ‘collaborators’ were severely affected and in some cases suffered a similar fate. In one case [JB02624], the boys of the household were suspected of being police informers and a house was burned with the family members inside it. At least one person was killed and several other family members were severely burned.

285 Mr Mava Rwexu [EC0532/96ALB] suffered substantial loss when his house at Tantjie Location, Grahamstown, was burnt down by a group of unknown perpetrators on the grounds that his sister was a police reservist. At the time of the burning, his nieces Vuyisa, Priscilla and Nohose Hoboshe were in the house; all died in the fire.

286 A large number of people who were necklaced in the mid-1980s were people perceived to be police ‘informers’. The case of Ms Nosipho Zamela is reported above.

287 Cases of burnings were also reported in relation to boycotts. Tensions within communities and between residents and security forces during boycotts were common. In some areas, ‘boycott-breakers’ were severely dealt with by those who volunteered to monitor the boycotts.

288 For example, Ms Nombulelo Julia Delato [CT 00390/KAR] was seen by a group of youth buying meat during a consumer boycott in Colesberg. She was confronted and her meat was trampled on. She laid charges with police who began searching for those responsible. Ms Delato was a supporter of community organisations, but was seen as an informer after the incident. As she was married to a former Prisons Department employee, Mr Stanford Thembile Delato, who became a community policeman in 1983, the Delato family were increasingly labelled as *impimpis* (sell-outs). Delato’s home was stoned and police began guarding it and escorted her publicly. When, after a few weeks the police guard relaxed, Ms Delato was caught by a group of youth and set alight. She died in hospital. The Delato family could not bury her in Colesberg because of community hostility. A number of people were charged with her murder including Mr Tembile Falati, Mr Zolile Silwane, Mr Thabo Gusha, Mr Pingdyaan Kelem, Mr Titsha Mhlakulo and Mr Tifo Paul Setlaba. Setlaba was sentenced to death while others received long prison sentences.

289 People perceived to be practising witchcraft were sometimes killed by ‘comrades’, some by the necklace method. Ms Nofikile Dikani and her daughter Zameka

Dikani (29) [EC1967/97ELN] were necklaced to death in Duncan Village on 2 January 1986. Comrades accused them of bewitching Fudwana (Fudukile) Dikani, Nofikile's son, who was killed in October 1985 when an SADF casspir drove over his vehicle. According to evidence given to the Commission, Fudwana used to transport injured victims of police shootings to hospital [EC0943]; thus his death was perceived as a deliberate act. The other passenger in the vehicle, Mr Sivuyile Wellington Hobiya [EC0797] survived with injuries.

- 290 A number of people were killed by burning and necklace during clashes between organisations. These included clashes between gangs and comrades or residents; clashes between UDF supporters and people perceived as AZAPO followers; clashes between comrades and vigilantes, and conflicts between UDF/ANC and Inkatha/IFP. Some of these incidents are detailed in Volume Three.
- 291 Criminal elements were targeted. Campaigns such as the closing of shebeens at particular times aimed to reduce criminal activities. Criminal elements became victims in the process. However, *shebeen* owners who defied the campaign found themselves victims as well.
- 292 Some political activists were victims of burning and necklace killings in what, according to evidence from former state operatives as well as amnesty applications, now appears to be the work of security forces. Examples include the Cradock Four and PEBCO Three. The actions were done either to destroy evidence and/or to suggest that the killings were conducted by rival groupings.

### ***Stabbing***

- 293 A number of people were victims of stabbings, many of which resulted in death. Although stabbing had always been associated with criminality, at the height of resistance it was used by some political activists to attack political opponents either in the government or in other organisations.
- 294 In the early 1960s, attacks of this nature involved hacking victims to death, using axes, *pangas*, swords and other sharp instruments. The choice of weapons was partly related to the limited availability of guns at the time. The Commission database indicates that stabbing was amongst the most widely used methods of killing in the period between 1960 and 1975. Mr Sizathu Mlomo [EC2221/97ETK], a government employee, was brutally stabbed by named perpetrators in Bizana in December 1960. He was accused of siding with the implementation of Tribal Authority Act.

295 In March 1960, in Isikelo Location in Bizana, Mr Robert Nonqandela [EC1817/97ETK] was stabbed with swords and other sharp instruments all over his body and head by unknown people opposed to the establishment of the Trust Land Act. Nonqandela was believed to be siding with chiefs who were in favour of the Act. He was hospitalised for a week. On his return, his homestead (five houses) was destroyed by fire, seemingly by the same unknown perpetrators who assaulted him.

296 From the mid-1970s to early 1980s, stabbing was not a prominent method of killing. However, in the early 1990s, the use of axes (hacking) in urban areas re-emerged. (See Boipatong massacre in Volume Three.) Stabbing also became prominent in the early 1990s, particularly in conflicts that involved organisations. A large number of people that were first stabbed to death were later set alight. These are sometimes confused with necklace killings.

297 In certain instances security forces were involved in creating a situation in which people were stabbed. Mr Mthuzimele Manziya [EC0636/96UIT] died after he was stabbed and hacked by *Ama-Afrika* members near an initiation hut in KwaNobuhle, Uitenhage. Manziya and nine others were guarding *abakhwetha* (initiates) from attacks by the *Ama-Afrika* when police allegedly fired tear gas at them and forced them towards a hidden group of *Ama-Afrika* vigilantes. Manziya's back was full of stab wounds and his head sustained a severe wound by axing. He died on 31 December 1989 at Livingstone hospital in Port Elizabeth.

### ***Stoning***

298 Few cases of stoning were reported to the Commission, possibly because stoning often led to more severe violations such as stabbing and even burning. A significant number of targets of stoning were security forces deployed in the townships.

## APPENDIX

# Organisational structures and names of people holding office

## ■ AFRICAN NATIONAL CONGRESS (ANC)<sup>1</sup>

The National Executive Council (NEC), the highest executive organ of the ANC responsible for the overall policy of the organisation, had two main committees: The National Working Committee – made up of those NEC members based at the organisation's headquarters in Lusaka – was responsible for conducting the day-to-day running of the ANC at NEC level. The Secretariat - made up of the Secretary General and representatives of the ANC President's office and the Treasurer General's Office - was responsible for providing the secretariat services to the ANC.

### Membership of NEC between 1963 and 1969

(ANC 2nd submission, p. 34)

CHAIR: Mr OR Tambo TREASURER: Moses Kotane SECRETARY GENERAL: Duma Nokwe OTHER MEMBERS: Mzwai Piliso, Mendy Msimang, Moses Mabhida, Themba Mqota, Mark Shope, JB Marks, Tennyson Makiwane, Ambrose Makiwane, Jimmy Hadebe, Joe Matthews, Alfred Nzo, TT Nkobi, Johnny Makathini, Robert Resha, Dan Tloome, Joe Modise.

### Membership of NEC between 1969 and 1976

ACTING PRESIDENT: OR Tambo TREASURER: Moses Kotane, followed by JB Marks SECRETARY GENERAL: Duma Nokwe, succeeded by Alfred Nzo in 1969 OTHER MEMBERS: John Motshabi, Mzwai Piliso, Moses Mabhida, Themba Mqota, JB Marks, Tennyson Makiwane, Ambrose Makiwane, Jimmy Hadebe, Joe Matthews, Alfred Nzo, TT Nkobi, Johnny Makathini, Robert Resha, Dan Tloome, Joe Modise, MEMBERS CO-OPTED during this period include: Thabo Mbeki, Chris Hani, Jacob Zuma, Joe Jele, Joe Gqabi, John Nkadimeng, John Gaetsewe, Robert Manci, Andrew Masondo, Henry Makgothi, Florence Moposho, Simon Makana. The Makiwane brothers and Themba Mqota were expelled in 1972.

<sup>1</sup> From the second submission of the ANC.

## **Membership of NEC between 1976 and 1980**

PRESIDENT: OR Tambo TREASURER: Thomas Nkobi SECRETARY GENERAL: Alfred Nzo ADMIN SECRETARY: Joe Nhlanhla OTHER MEMBERS: Mzwai Piliso, Moses Mabhida, Joe Modise, Joe Jele, John Motshabi, Andrew Masondo, Joe Gqabi, Jacob Zuma, Robert Manci, Steve Dlamini, John Nkadimeng, Simon Makana, Florence Moposho, Gertrude Shope, Duma Nokwe, Thabo Mbeki, Johnny Makathini.

## **Membership of NEC between 1980 and 1983**

PRESIDENT: OR Tambo TREASURER: Thomas Nkobi SECRETARY GENERAL: Alfred Nzo National ADMIN SECRETARY: Joe Nhlanhla OTHER MEMBERS: Mzwai Piliso, Moses Mabhida, Joe Modise, Joe Jele, John Motshabi, Andrew Masondo, Joe Gqabi, Jacob Zuma, Robert Manci, Steve Dlamini, John Nkadimeng, Simon Makana, Florence Moposho, Gertrude Shope, Duma Nokwe, Johnny Makathini, Chris Hani.

## **Membership of NEC between 1983 and 1985**

PRESIDENT: OR Tambo TREASURER: Thomas Nkobi SECRETARY GENERAL: Alfred Nzo ADMIN SECRETARY: Joe Nhlanhla OTHER MEMBERS: Mzwai Piliso, Moses Mabhida, Joe Modise, Joe Jele, John Motshabi, Andrew Masondo, Robert Manci, Joe Gqabi, Jacob Zuma, Steve Dlamini, John Nkadimeng, Simon Makana, Florence Moposho, Gertrude Shope, Chris Hani, Thabo Mbeki, Johnny Makathini.

## **Membership of NEC between 1985 and 1990**

For the first time the ANC had a fully-elected NEC, consisting of 28 members.

PRESIDENT: OR Tambo TREASURER: Thomas Nkobi SECRETARY GENERAL: Alfred Nzo OTHER MEMBERS: Johnny Makathini, Simon Makana, Joe Slovo, Thabo Mbeki, Chris Hani, Moses Mabhida (until his death in 1986), Tony Mongalo, Dan Tloome, John Motshabi, John Nkadimeng, Mac Maharaj, Cassius Make (until his assassination in Swaziland in 1987), Florence Moposho, Joe Nhlanhla, Joe Modise, Ruth Mompati, Henry Makgothi, Pallo Jordan, Jacob Zuma, Joe Jele, Sizakele Sigxashe, Robert Manci, Gertrude Shope, Francis Meli, Reg September, Jackie Selibi, Hermanus Loots ('James Stuart'), Steve Tshwete, Zola Skweyiya. MEMBERS CO-OPTED in 1987: Ronnie Kasrils, Jackie Sedibe, Aziz Pahad, 'Bra T' (Godfrey Ngwenya) and Sindiso Mfenyane.

The Revolutionary Council (RC) was established in 1969 during Morogoro conference and instructed by the NEC to concentrate on the home front: developing internal structures, gaining publicity for the ANC and waging armed struggle. The RC expanded over the years by co-opting new members and developing structures or portfolios including Communications, Ordnance Intelligence and Security.

### **RC membership between 1969 and 1976**

CHAIR: OR Tambo DEPUTY CHAIR: Yusuf Dadoo SECRETARY: Joe Matthews ASSISTANT SECRETARY: Simon Makana OTHER MEMBERS: Joe Modise, Thabo Mbeki, Jackie Sedibe, Duma Nokwe, Moses Kotane, Tennyson Makiwane, JB Marx, Robert Resha, Ruth Mompati, John Motshabi, Joe Slovo, Andrew Masondo, Mzwai Piliso, Reg September, Jacob Masondo, John Gaetsewe.

Military Operations fell under Joe Modise. NAT (National Security) was first established in April 1969 under the leadership of Moses Mabhida.

### **RC membership between 1976 and 1980**

CHAIR: OR Tambo SECRETARY: Moses Mabhida ASSISTANT SECRETARY: Simon Makana, followed by Job Tlhabane ('Cassius Make') in 1977 OTHER MEMBERS: Mzwai Piliso, Moses Mabhida, Joe Modise, Joe Jele, John Motshabi, Robert Manci, Steve Dlamini, Florence Moposho, Gertrude Shope, Duma Nokwe, Thabo Mbeki, Johnny Makathini, Joe Slovo, Yusuf Dadoo, Jacob Masondo, Chris Hani, 'Lennox' Tshali, Peter Dlamini, Bogart Soze. MEMBERS CO-OPTED to the structure after 1977: Joe Gqabi, Mac Maharaj, Godfrey Pule, Jacob Zuma, John Nkadieng, 'Peter' Tshikare, Sizakele Sigxashe, Andrew Masondo.

### **RC membership between 1980 and 1983**

CHAIR: OR Tambo SECRETARY: Moses Mabhida ASSISTANT SECRETARY: Mr Job Tlhabane OTHER MEMBERS: Joe Slovo, Yusuf Dadoo, Joe Modise, Jacob Masondo, John Motshabi, Joe Jele, Chris Hani, 'Lennox' Tshali, 'Peter' Dlamini, Joe Gqabi, Mac Maharaj, Godfrey Pule, Jacob Zuma, John Nkadieng, Peter Tshikare, Sizakele Sigxashe, Andrew Masondo, Mzwai Piliso, Robert Manci, Steve Dlamini, Simon Makana, Gertrude Shope, Florence Moposho, Thabo Mbeki, Johnny Makathini, Bogart Soze.

The RC was replaced by the Politico-Military Council (PMC) at this stage, which became the executive arm of the NEC in relation to all matters pertaining to the conduct of the political and military struggle inside S.A. It was tasked with the overall strategic planning for internal ANC/MK work and to assess the state of the nation. The PMC co-ordinated the activities of Political Head Quarters, Military Head Quarters, NAT and the Regional Politico-Military Councils. Membership on these structures can be found in second submission of the ANC (pp 48/49).

### **PMC membership between 1983 and1985**

CHAIR: OR Tambo TREASURER: Reg September SECRETARY: Joe Nhlanhla (until 1987) MHQ REPRESENTATIVE: Joe Modise PHQ REPRESENTATIVE: Joe Jele, Mac Maharaj, Jacob Zuma, John Motshabi, Ruth Mompati NAT REPRESENTATIVE: Mzwai Piliso Other members included Alfred Nzo, TT Nkobi, Job Tlhabane, Sizakele Sigxashe, Andrew Masondo, Moses Mabhida, John Nkadimeng.

### **PMC membership between 1985 and 1990**

CHAIR: OR Tambo SECRETARY OF THE SECRETARIAT: Joe Nhlanhla (1983/1984-1987), Followed by Joe Jele(1987-1990) MHQ REPRESENTATIVES: Joe Modise, Joe Slovo, Chris Hani, Steve Tshwete, Ronnie Kasrils, Job Tlhabane (until 1987)

(PHQ was replaced by the Internal Political Committee (IPC)in 1987).

PHQ/IPC REPRESENTATIVES: Mac Maharaj, Joe Jele, Jacob Zuma, (1985-1990), Ruth Mompati, Steve Tshwete, Joel Netshitenzhe. NAT Representatives: Mzwai Piliso (until 1987) and then Joe Nhlanhla and Sizakhele Sigxashe Other members were Moses Mabhida and John Nkadimeng. (For membership of structures that reported under the PMC see ANC second submission (pp 52-55).

### **MK Command 1976-1980**

Mzwandile Piliso, at the time - Head of the Dept. of Military Training and Personnel. 1980: Simon Shekeshe ('Julius Mokoena'), appointed Regional Commander 1982: Graham Morodi ('Mashego') Until 1985: Godfrey Ngwenya ('Timothy Mokoena'), later Ali Makhosini

## Camp Commanders

GABELA TRAINING CAMP (1976-1977): FAPLA AND CUBAN INSTRUCTORS  
ENGINEERING LUANDA (Transit camp) (late 1976-mid 1977): Simon Shekeshe, then Castro Ramokgopa BENGUELA TRANSIT CAMP (1977-1982): Simon Shekeshe, followed by 'Dlokolo' Nova CATENGUE TRAINING CAMP (1976-1979): Simon Shekeshe QIBAXE TRAINING CAMP (1977-1980): Parker Tsie (1977-1980), Oupa G. Banda, Seremane Kgositile (Kenneth Mahamba), Livingstone Tom Gaza, Herbert Malinga, Lloyd Mabizela and Sydney Mpila. FUNDA TRAINING CAMP (1976-1988): Zakes Tolo, then Seeiso Morapedi FAZENDA MILITARY CAMP (1978-1980/1981): Livingstone Tom Gaza PANGO CAMP(1979-1989): Thami Zulu (1979-1981), Seremane Kgositile, Godfrey Ngwenya, Matthews Nkosi, Phillip Sebothoma, Dumile Thabekhulu, Ben Senokoanyane. VIANA TRANSIT CAMP (Camp 001) (1979-1989): Dan Hatto, Golden Rahube, Steve Kobe, Johnson Langa, Lawrence Madi, Leepo Modise. Hoji Ya Henda (Camalundi: Mzwakhe Ngwenya, then Godfrey N Ngwenya (1980-Jan 1981) Cacaluma (Malanje) (Jan 1981- 1989: Godfrey N Ngwenya, then Sipho Binda, then Thibe Lesole, then Dumisane Mafo, Themba Nkabinde, then Steven Kobe. CAXITO TRAINING CAMP (1979-1984) Successively Andile Ndzanga, Robert Mandita, Dumile Thabekhulu and Ben Senokoanyane

## ■ PAN AFRICANIST CONGRESS (PAC)

### National Executive at PAC's Founding in 1959

PRESIDENT: Mangaliso Robert Sobukwe NATIONAL SECRETARY: Potlako Kitchener Leballom TREASURER-GENERAL: Abednego Bhekabantu Ngcobo NATIONAL ORGANISER: Elliot Mfaza ADDITIONAL MEMBER: Gordon Mabhoza ADDITIONAL MEMBER: CJ Fazzie ADDITIONAL MEMBER: Howard Ngcobo. NATIONAL SECRETARIAT: SECRETARY FOR EDUCATION: Peter Nkutsoeu Raboroko FOREIGN AFFAIRS: Peter Hlaole Molotsi JUDICIAL AFFAIRS: Zephania Lekoape Mothopeng INFORMATION/PUBLICITY: Zacharius Bohloko Molete LABOUR: Jacob Dum-Dum Nyaose ECONOMIC AFFAIRS: Hughes Hlatshwayo CULTURE/YOUTH: Nana Mahomo

Regional Chairpersons were theoretically *ipso facto* members of the NEC. This was put into effect when the Presidential Council was formed in Maseru in 1962.

An interim *ad hoc* structure under ZB Molete as Acting President operated in the underground period until the formation of the Presidential Council in Maseru under Leballo in 1962.

## **Presidential Council in Maseru (1962–approximately 1965)**

ACTING PRESIDENT/NATIONAL SECRETARY/CHAIRPERSON OF COUNCIL:  
PK Leballo (Ex-Chairperson of North Eastern region: John Nyathi Pokela) EAST-  
ERN CAPE: Mfanasekhaya Gqobose WESTERN CAPE: Templeton Ntantala  
TRANSKEI: Tsepo Letlaka

## **National Executive Committee in Tanzania (1964-1967)**

ACTING PRESIDENT/NATIONAL SECRETARY: PK Leballo TREASURER-  
GENERAL: AB Ngcobo EDUCATION: Peter Raboroko PUBLICITY/INFORMATION:  
ZB Molete LABOUR: JD Nyaose CULTURE/YOUTH/CHIEF REP(London/Europe):  
Nana Mahomo PAN AFRICAN AFFAIRS AND CHIEF REP IN GHANA/WEST  
AFRICA: PH Molotsi ADDITIONAL MEMBER: TT Letlaka ADDITIONAL MEMBER:  
Mfanasekhaya Gqobose

## **National Executive Committee (1967-68)**

ACTING PRESIDENT: PK Leballo TREASURER-GENERAL: AB Ngcobo  
LABOUR: JD Nyaose PUBLICITY AND INFORMATION: ZB Molete EDUCATION:  
Peter Raboroko CULTURE/YOUTH ETC: Nana Mahomo (Commander of APLA):  
TM Ntantala: Cardiff Marney, Kenny Jordan, Barney Desai, MP Gqobose, JN  
Pokela, TT Letlaka

## **Revolutionary Command (1968-1971)**

CHAIRPERSON AND ACTING PRESIDENT: PK Leballo DEPUTY CHAIRPERSON  
AND COMMANDER/APLA: TM Ntantala PUBLICITY AND INFORMATION: Edwin  
Makoti Chief of Staff/APLA: Theophilus Bidi CHIEF OF SECURITY/INTELLIGENCE:  
Jack Jako MP Gqobose, JN Pokela, Gasson Ndlovu (DEPUTY COMMANDER/  
APLA), PZ Mboko (Chief Political Commissar/APLA, Gerald Kondlo (died in Vila  
Peri), John Rankoane (died in Vila Peri).

## **Central Committee (1971-78)**

Following changes effected after the first split.

CHAIRPERSON/ACTING PRESIDENT: PK Leballo DEPUTY CHAIR/COMMANDER  
OF APLA: TM Ntantala PUBLICITY AND INFORMATION: Edwin Makoti  
TREASURER: MP Gqobose ADMINISTRATION SECRETARY: Elias Ntloedibe  
DEPUTY COMMANDER/APLA: Gasson Ndlovu CHIEF POLITICAL COMMISSAR

/APLA: PZ Mboko FOREIGN AFFAIRS/PERMANENT REP.(UN AND AMERICAS): David Sibeko DEPUTY CHIEF POLITICAL COMMISSAR, APLA: Zeblon Mokoena: CHIEF OF STAFF, APLA: Theophilus Bidi INTELLIGENCE AND SECURITY: Jack Jako: Vusi Make Esrome Mokhakala Tshongoyi

### **Central Committee (1978 - 1979)**

CHAIRPERSON: PK Leballo FOREIGN AFFAIRS: David Sibeko PUBLICITY AND INFORMATION: Elias Ntloedibe DEFENCE: Edwin Makoti ADMINISTRATIVE SECRETARY: VDDD Mantshontsho EDUCATION/ MANPOWER DEVELOPMENT: Jimmy Mogoetjane Vusi Make WELFARE: Elizabeth Sibeko Gertrude Mathute

The Second Presidential Council, a triumvirate of three who replaced Leballo after they had persuaded him to resign late in 1979. It consisted of Vusi Make as Chairperson, and David Sibeko and Elias Ntloedibe as members

### **Central Committee after David Sibeko's assassination (1979)**

CHAIRPERSON: Vusi Make ADMINISTRATIVE SECRETARY: DDD Mantshontsho PUBLICITY/INFORMATION: EL Ntloedibe FOREIGN AFFAIRS/PERMANENT REP.UN/AMERICAS: Henry Isaacs FINANCE: EV Radebe DEFENCE: Edwin Makoti FIELD COMMANDER, APLA: Enoch Zulu EDUCATION/MANPOWER DEVELOPMENT: Count Pietersen WELFARE: Elizabeth Sibeko LABOUR: Mike Muendane

### **Central Committee in 1981- 86 under Pokela**

CHAIRPERSON: JN Pokela DEPUTY CHAIRPERSON: Vusi Make ADMINISTRATIVE SECRETARY: Joe Mkhwanazi SECRETARY OF DEFENCE AND COMMANDER OF APLA: Sabelo Gqwetha FOREIGN AFFAIRS: Gora Ebrahim TREASURER: Macdonald Mgweba MP Gqobose LABOUR: Michael Muendane PUBLICITY/INFORMATION: Edwin Makoti Johnson Mlambo

### **Central Committee (1986-1990) under Johnson Mlambo**

The same personnel as above continued except for the Chair. Mlambo replaced Pokela who had died of natural causes in 1985. This set held on, with occasional changes and minor adjustments until PAC, like the ANC and SACP, were legalised in 1990.

# The Homelands<sup>1</sup> from 1960 to 1990

## ■ INTRODUCTION

- 1 This section focuses on the security forces operating in the former independent and self-governing homelands and their role in South Africa's overall security strategy. The homelands security forces did not enjoy complete autonomy within the boundaries of homeland territories. They often worked alongside members of the South African security forces. Frequently, the South African security forces carried out both public and covert operations in the homelands, independently of the homeland security forces.
- 2 The Commission's work on the former homelands was constrained by a number of factors. The Commission deployed teams of statement-takers to the homeland areas. However, owing to the primarily rural nature of the homelands and the logistics of statement-taking, not every area could be canvassed. Much of the evidence gathered from former homelands is documented in the relevant regional profiles (see Volume Three).
- 3 The Commission received a substantial submission on the former homelands prepared by Roger Southall and Geoff Wood.<sup>2</sup> The submission focused principally on the two Eastern Cape homelands, namely the Ciskei and the Transkei, and has been used in compiling this chapter. The full submission is available in the Commission's archives.
- 4 This chapter presents an overview of the development of security forces in the former homelands. It goes on to outline developments in the independent territories of Transkei and Ciskei and in the self-governing territory of KwaZulu. For the purposes of this chapter, the KwaZulu government, the KwaZulu Police (KZP)

1 The terms "homeland" and "independent homeland" are used throughout this section for the sake of convenience; the terms 'territories' and 'states' have also been used. The terms applied to these entities by the South African government have changed over time: According to the South African Institute of Race Relations (SAIRR) they were initially called 'African Reserves', then 'homelands' in the 1960s and 'Black States' from 1978 (SAIRR, 1948-79). The term 'bantustan' has also been in common usage.

2 Roger Southall & Geoffrey Wood, 'Control and Contestation: State Security in South Africa's Homelands.' A report to the Truth and Reconciliation Commission, 1988.

and the Inkatha Freedom Party (IFP), formerly the Inkatha Cultural Liberation Movement, are examined together, based on the argument that they were seen and treated as mutually indistinguishable in the period of the Commission's mandate. Lastly, this chapter examines the development of vigilante groups and their activities in the self-governing territory of KwaNdebele.

## ■ OVERVIEW: DEVELOPMENT OF SECURITY STRUCTURES IN THE HOMELANDS

### Introduction

- 5 The homelands system lay at the heart of the National Party (NP) government's policy of territorial and political separation based on race. Long before the NP's election victory in 1948, legislation had been enacted to lay the groundwork for the development of the homelands. This included the 1913 and 1936 Land Acts. The Bantu Authorities Act was passed in the early 1950s, increasing the powers of traditional authorities in preparation for self-governance, and in 1959, the Promotion of Bantu Self-Government Act provided the legislative basis for the future homelands. Based on the notion that South Africa's indigenous population was composed of eight (later, ten) African national groups, the architects of apartheid proposed that each group be given the opportunity to advance to higher forms of self-government until independence for each could eventually be realised.
- 6 From their creation, the homelands proved to be an emotional and highly charged issue. By and large, opinion on the subject was divided between those who generally supported the homelands project and those who opposed it. In the former group, NP politicians portrayed the homelands as a moral response to South Africa's 'multi-national' reality. Apartheid theorists believed that South Africa was a country containing a number of nations, each developed to a greater or lesser degree. Freedom, they posited, could be realised only by providing the opportunity for each of these nations to exist and develop along its own lines. To achieve this, the South African government initiated the programme of 'separate development'. Proponents of the policy envisioned the creation, under white tutelage, of a number of independent but mutually supportive African states. Theoretically, the homeland system was designed to realise this vision.
- 7 Support for the homelands was not limited to South Africa's enfranchised white minority. Some Africans, especially members of the rural elite, also lent their authority to the system. Those who participated in the established structures did

so for a variety of reasons. Some sought political or economic gain; others truly believed in the stated goals of traditional rule or national development. Still others argued that they participated in the system only to work for change from within.

- 8 Arguments against the homeland system were based on different philosophical and political beliefs, although a number of common threads run through the various critiques. First, some observers outside of the NP believed that economic constraints would inhibit the potential for the full realisation of the homeland concept. Second, many South Africans rejected the apartheid notion that ethnic ties naturally separated the country's population into different nations. This school of thought regarded the homelands as an extension of the central government's policy of 'divide and rule'. Finally, more radical analyses concluded that the homelands were being used as vast dumping grounds where labour superfluous to the (white) capitalist economy could be effectively contained and controlled.
- 9 Rural resistance to the creation of homelands, in particular the imposition of tribal authorities and of betterment and rehabilitation schemes, increased during the 1950s. Clashes between police and protesters resulted, notably at Witsieshoek in the Orange Free State in 1950 and at Sekhukhuneland in the eastern Transvaal in 1958. By 1960, opposition in rural Transkei had culminated in the Pondoland Revolt (see below).
- 10 The arguments for and against the homelands and the pre-1960 political developments that contributed to their establishment are not the focus of this chapter. Rather, the chapter seeks to highlight the role of various homeland security forces in the violation of human rights.

### **Overview of violations 1960-1994**

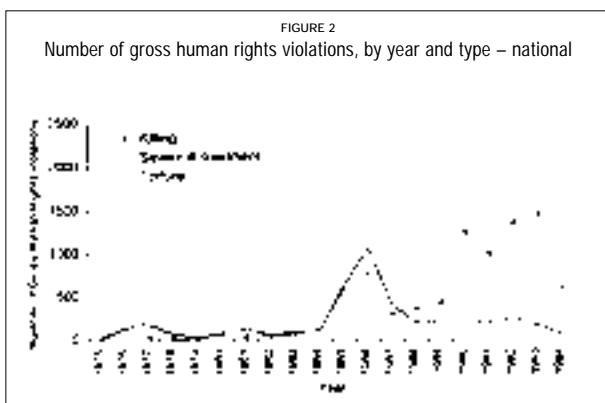
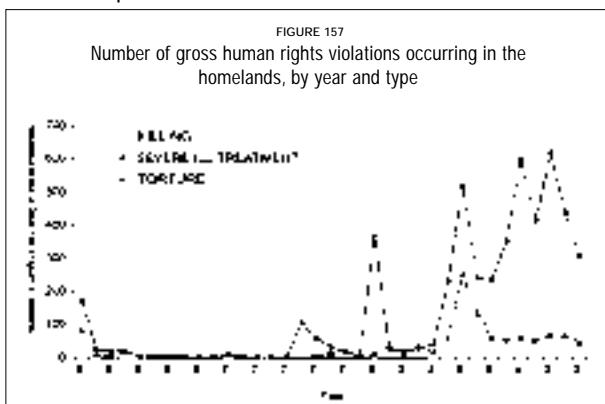
- 11 The table below records the percentage, by type, of gross human rights violations that occurred in the homelands for all periods and is measured against the equivalent figures for non-homeland areas. Counts are done throughout the 1960-94 period on all ten geographical areas that were eventually to become either self-governing or independent territories.

	Abduction	Killing	Severe ill treatment	Torture	Total
Homeland	4%	27%	56%	13%	100%
Non-homeland	3%	29%	52%	16%	100%

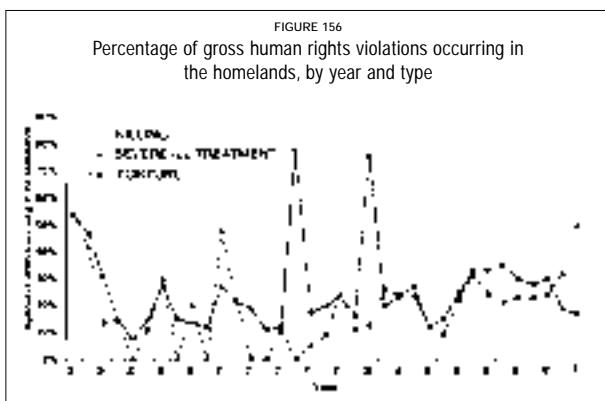
12 It is clear that the ratios in respect of types of violations reported to the Commission for the homeland areas are virtually identical to the ratios for violations reported for non-homeland areas. This indicates that the existence of the homelands did not have a substantial impact on the types of violations experienced there.

13 The correlation between violations experienced in the homelands and in the rest of the country is again illustrated by the following graphs:

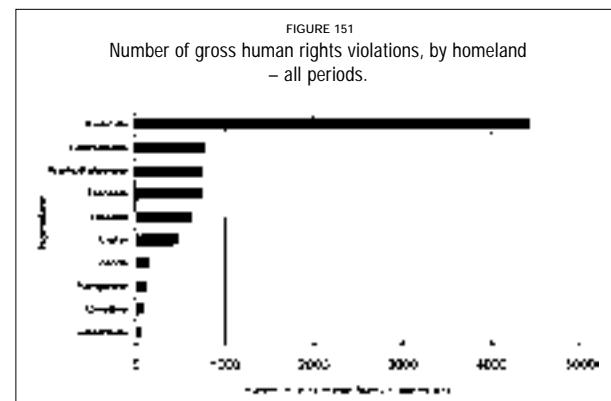
14 Note that figure 157 runs from 1960 to 1994, while Figure 2 runs from 1975 to 1994; also that the vertical axis is calibrated differently. However, these graphs both show similar peaks and troughs in violations for the period from the mid-1970s to 1994. Both show severe ill treatment as the key violation, with killings increasing but torture declining during the 1990s.



15 Figure 156 shows how many of the violations reported to the Commission occurred in the homelands regions. Despite the increases and decreases in violations recorded here, the mean number of violations reported in the homelands remains a constant 35-40 per cent of total violations reported. The years recording the highest percentage of violations in the homelands are 1975 (the year before the Transkei gained independence) and 1980 (see those specific periods, below).

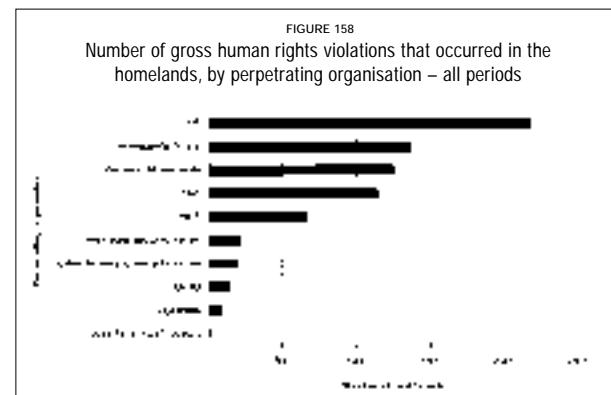


16 These graphs point towards a similarity in the occurrence of violations nationally and in the homelands, indicating a similarity in policies towards opponents by both national and homeland administrations.



17 From figure 151, it is clear that overwhelmingly the greatest number of violations reported for the homelands for the overall 1960-94 period occurred in KwaZulu. Almost five times as many violations were reported in KwaZulu as for the next homeland in the graph, KwaNdebele. There is a negligible difference in the number of violations reported overall in Bophuthatswana, KwaNdebele, Transkei, Lebowa and Ciskei. It is worth noting that, according to the information in this figure and leaving aside the case of KwaZulu, whether a homeland was independent or self-governing seems to have made little difference to the number of violations. For an indication of how this trend changed over time, see the rest of this series of graphs under each time period below: note the different scales of the horizontal axes in these graphs, which indicate a substantial increase in violations for the later periods.

18 Figure 158 shows the main perpetrator groups, with Inkatha as the dominant perpetrator group over the entire 1960-94 period; it should be borne in mind that Inkatha is almost entirely limited to the KwaZulu homeland, one of the ten geographical areas under consideration. Inkatha is followed by the homelands police, the liberation movements and the South African Police (SAP). Note that the SAP, homelands police and other security forces are split into separate groups, although it seemed that deponents were often unable to distinguish between these groups.



## ■ 1960-1975: SEPARATE DEVELOPMENT AND THE GROWTH OF THE HOMELANDS

### Historical and political overview

- 19 This period began with the 1960 Pondoland Revolt in Transkei, a rural revolt against the increased powers of chiefs and the imminent imposition of homeland structures (see below in the Transkei and Ciskei section). Three years later Transkei became the first homeland to be granted self-government status.
- 20 Following the successful clampdown on internal opposition, there was a period of marked economic growth. In the wake of these developments, the NP was provided with an opportunity to consolidate its control over the state. In this period of 'grand apartheid', the South African government embarked on a project of profound and widespread social engineering. From the 1960s onwards, millions of individuals were uprooted and relocated – generally to the homelands – in the process of 'consolidating' South Africa's ethnic map. Direct physical violence, accompanied by the structural violence inherent in the system of migrant labour, resulted in violations of human rights that defy easy calculation.
- 21 In this period of forced removals, land consolidation and homeland political development, the legislation prepared by Prime Minister Verwoerd's Native Affairs Department was widely implemented. In particular, elaborate and at times farcical steps were taken during the 1960s and 1970s to establish African-led administrations in the homelands. As was often the case, the Transkei proved the testing ground and eventually the model for the other homelands.
- 22 In 1963, the South African parliament passed the Transkei Constitution Act, replacing the existing territorial authority with a 'self-governing' legislative assembly with limited law-making powers. The assembly consisted of forty-five elected members and sixty-four *ex officio* chiefs (who, in terms of the 1951 Bantu Authorities Act, were employees of the South African government). From this body, a chief minister was elected who in turn appointed a homeland cabinet. Following the first general election later in the year, Chief Kaiser Matanzima was elected to the chief ministership, largely on the support of the non-elected chiefs.
- 23 Almost a decade passed before another homeland followed Transkei's lead. Partly to avoid further delay, in 1970-71 the South African government passed two pieces of legislation designed to ease the political development of the remaining homelands.

The Bantu Homeland Citizenship Act stipulated that all African South Africans were citizens of one of the homelands, even if they currently lived in the ‘white’ Republic. The Bantu Homelands Constitution Act empowered the Prime Minister to devolve self-government to the homelands by decree, thus circumventing the cumbersome legislative process employed in the case of the Transkei.

24 Political developments quickly followed in a number of homelands. In 1971, self-government was granted to Ciskei and Bophuthatswana; Lebowa, Gazankulu and Venda received self-government in 1973. Only Transkei, Bophuthatswana, Venda and Ciskei (the so-called TBVC states) ever went on to take independence. In 1972, the KwaZulu Legislative Assembly was established, followed by self-government in February 1977; KwaZulu consistently refused to opt for independence. At the end of this period, in 1975, Chief Mangosuthu Buthelezi revived Inkatha, then a cultural organisation. Buthelezi has been president of Inkatha ever since and went on to head the KwaZulu government throughout its existence. The remaining homelands became self-governing over the ensuing years. In this manner, the apartheid principle of territorial segregation was physically realised through the creation of separate, ethnically-based homelands.

## **Developments in security structures**

25 Throughout the period in question, the SAP continued to dominate state security strategy in the homelands. When a peasants’ revolt and popular resistance emerged in Pondoland and elsewhere, the SAP blamed the situation on groups of ‘agitators’ and ‘intimidators’ who were said to be causing ‘riots’ in previously quiescent and non-politicised areas. The police argued that rural Africans were, by and large, law-abiding citizens who wanted no part of such activities. Police strategy focused therefore on counter-insurgency operations to prevent ‘riotous’ behaviour. Intelligence-gathering structures aimed to expose and apprehend those deemed guilty of inciting it.

26 This was achieved, as described later in this chapter, with the aid of a battery of new security regulations. Much of this legislation was first employed in the homelands. For example, in response to the situation in the Transkei, Proclamations R400 and R413 were gazetted in 1960. *Inter alia*, the proclamations stipulated that:

- a The Minister of Bantu Administration and Development could prohibit any person from entering, being in or leaving Transkei;

- b Gatherings of more than ten people (except for church meetings and certain other social events) were forbidden without official permission;
- c The police were entitled to arrest and indefinitely detain people without a warrant;
- d It was an offence to attend an unlawful gathering, to make any statement or perform any action likely to interfere with the authority of the state, or to boycott official meetings.

27 In addition to the SAP, the first homeland police force was established in the Transkei in this period. It soon became a model for developments in other homelands. Following the granting of self-governing status in 1963, a local department of justice was established in the homeland. To begin with, the Transkei's forty-four police stations continued to fall under the control of SAP district commands in Kokstad and Umtata. Over time, however, all police stations and staff were transferred to the Transkei Police Force (TPF), officially formed in 1972 under the command of a seconded SAP member, Brigadier BS Pieterse. As would be the case in other homelands, the SAP continued to exercise control over the emerging homeland force. By 1975, the 543 serving members of the TPF were commanded by five white officers, all seconded from the national police force. Similarly, the SAP continued to supply the relevant equipment and training for the TPF, while revenues from the South African government supported the entire homeland edifice, including the Department of Justice. The final and ultimate influence of the SAP, however, was its continued operational presence.

28 In the period under review, military duties remained the sole preserve of the South African Defence Force (SADF), as homeland armies were formed only in the latter half of the 1970s. Nevertheless, important shifts in the SADF's attitude to black soldiers occurred in this period, with coloured soldiers eventually being used for active duty. As late as 1970, Mr PW Botha, then Minister of Defence, restated official opposition to arming Africans. If "the Bantu" wanted to build a defence force, Botha suggested, "he should do it in his own eventually independent homeland".

29 However, as Portugal's colonial authority weakened in Mozambique and Angola, Pretoria was forced to reconsider its position. In 1973, a group of Africans was trained for guard duty at the Prisons Service Training Centre. In 1974, selected members of this group were redeployed as instructors at a newly established Army Bantu Training Centre. Although the SADF originally stressed that Africans

would remain non-combatants, by the end of the decade this position had been abandoned.

## Responsibility for gross violations of human rights

30 The table below indicates the percentage of types of gross violations which were reported to the Commission for this period (1960-75):

	Abduction	Killing	Severe ill treatment	Torture	Total
Homeland	1%	10%	64%	24%	100%
Non-homeland	2%	14%	46%	39%	100%

31 The table indicates that severe ill treatment and torture are the main violation types for this period and that there is a greater use of torture in non-homeland regions and a greater incidence of severe ill treatment in the homelands.

32 Figure 152 shows that the greatest number of homeland violations for this period occurred in Transkei. This reflects the large number of cases brought to the Commission stemming from the Pondoland Revolt. Figure 159 shows that the dominant perpetrator group for this period is the SAP. Again, this reflects the Pondoland Revolt cases, where the main violations reported to the Commission were detention, torture in detention and killings by police.



## ■ 1976-1982: INDEPENDENCE, CONSOLIDATION AND REMOVALS

### Historical and political overview

33 In the period 1976 to 1982, the homeland development project initiated by the 1959 Promotion of Bantu Self-Government Act reached its peak. Despite threats to the former state from other quarters (notably the national uprising of 1976-1977 and the growth of Black Consciousness), its ultimate objective with respect to the homelands was at least partially realised. In quick succession, political elites in Transkei, Bophuthatswana, Venda and Ciskei opted for constitutional 'independence' from South Africa (in 1976, 1977, 1979 and 1981 respectively). Although the prospect of independence had initially been seen as contingent on homelands meeting a number of prerequisites (based on administrative capacity, political maturity and economic development), these requirements were dropped to speed up the process. By the time Ciskei celebrated its independence, some eight million Africans had been 'de-nationalised', in effect becoming foreigners in the land of their birth.

34 In the hope of convincing the remaining six homeland administrations to follow suit, the South African government intensified efforts to consolidate the geographically fragmented homelands. This process included removing 'black spots' which remained in 'white' South Africa. As in previous periods, the suffering caused by this massive social engineering was widespread and extreme. Old methods of forced removals were supplemented, especially during the Botha administration, by new tactics – including the simple but effective practice of unilaterally re-drawing homeland boundaries. Specific conflicts that arose are discussed elsewhere in the Commission's report. Here, it is important to emphasise the cumulative, national impact of the homeland project. According to an often cited report of the Surplus People Project, an estimated 3.5 million people were moved by the South African state between 1960 and 1982 in support of its programme of homeland development.

35 While the homeland governments reached the height of their political powers in this period, the economic weakness of the supposed national states belied their independence. Where the 'reserves' had traditionally served to support and reproduce labour for the urban capitalist economy, under apartheid the growing homeland population was increasingly supported by remittances from relatives working in distant industries. Central government subsidies and loans supported

growing bureaucracies, which remained one of the few sources of employment in the remote homelands.

## Development of security structures

- 36 As homeland political development raced ahead, so homeland security structures came into their own. Following in the footsteps of the Transkei, the majority of homelands assumed responsibility for policing within their borders in this period. In addition, homeland armies were established in each of the independent bantustans. At the same time, regional, ethnically constituted SADF units were set up to serve the self-governing homelands as independent armies-in-waiting. Security legislation in the TBVC states was enacted to support these forces. At times, the powers accorded to homeland security forces exceeded those exercised by the SAP and SADF. The most important pieces of legislation included the Transkei Public Security Act of 1977, the Bophuthatswana Internal Security Act of 1979, the Ciskei National Security Act of 1982 and the Venda Maintenance of Law and Order Act of 1985.
- 37 With the establishment of the various homeland governments and their own security forces, the issue of political and operational control over security actions became particularly complex.
- 38 A security structure comprised of police, military and intelligence units operated in each of the independent homelands, although the forces were only ostensibly under the control of the homeland government. The effective power of such structures was carefully monitored and manipulated by the South African government to prevent any homeland from becoming a threat to the perceived interests of the Republic.
- 39 As a final resort, the South African security forces proved that, where they deemed it necessary, they were willing to take direct action in the independent homelands. Both homeland and South African security forces assumed the role of kingmaker at various times and in different places, alternatively overthrowing or preserving the rule of incumbent homeland politicians.
- 40 In the six self-governing homelands, the security situation proved even more complex. Due to the political ambiguity surrounding these areas, each homeland supported its own police force in addition to the continued presence and authority of the SAP. Furthermore, battalions of the SADF were frequently estab-

lished in the vicinity of the self-governing homelands as the core of a potentially independent army. National Intelligence agents monitored people and events in the homelands. Finally, locally-based vigilante movements emerged in many of the homelands, introducing a particularly unpredictable element into an already volatile situation.

- 41 In short, both the independent and the self-governing homelands were subjected to an excess and overlap of security forces, each with their own command and control structures accountable to different political masters. This redundancy in policing, military and intelligence structures led at times to political infighting, competition for resources and a proliferation of security operations.

#### ***Homeland police forces***

- 42 As noted above, in the period after 1976, responsibility for policing was transferred, to a greater or lesser degree, to all of the homelands. At independence, the Transkei government appointed its own chief of police, and by 1977 the Transkei Police Force (TPF) operated fifty-two police stations and five border control posts staffed by 1 038 police officers. A Transkei Prisons Service was established to operate penal institutions in the homeland. Finally, a Transkei Intelligence Service was established in 1976 which, under the control of the Transkei Prime Minister, assumed responsibility for intelligence and security activities previously undertaken by the South African Bureau for State Security (BOSS).
- 43 As other homelands accepted independence, responsibility for policing was similarly devolved. For example, the Bophuthatswana Police Force (BPF), established in 1978, created its own Special Branch, which was disbanded in 1982 and reconstituted as the Internal Intelligence Services. In Ciskei and Venda, an attempt was made to achieve economies of scale by combining policing, defence, intelligence and correctional functions into single joint forces. By the mid-1980s, both homelands had abandoned these plans in order to split their forces along traditional functional lines.
- 44 Transfers followed rather more slowly in the self-governing homelands. Gazankulu acquired its own police force in 1980, with Lebowa following suit the next year. A KZP force was established in 1980, although its jurisdiction was largely limited to rural areas. The SAP retained responsibility for policing the urban townships near Durban. Under the direction of South African security forces, the KZP was eventually restructured in the 1980s and its capabilities, including the capacity for offensive operations, were dramatically increased (see below).

45 While the various homeland forces created their own structures and approaches in order to meet local political and security needs, a number of characteristics can be observed across the homelands. These emerging characteristics remained fairly constant until the dissolution of the homelands in the wake of the 1994 election.

46 First, homeland police and intelligence forces were established to be supportive of homeland regimes. At one time or another, most of the homeland forces were used not only to protect incumbent regimes, but also to further the political or electoral fortunes of specific leaders or political parties. At the same time, outside restraints on the homeland police and governments, such as the judiciary, were systematically undermined and weakened. In this manner, police duty lay less in upholding the law than in serving the narrow interest of ruling elites.

47 Second, as a result of their politicisation, homeland police forces were generally more concerned with counter-insurgency than with combating crime. Given their close alignment with the political fortunes of individual regimes, homeland police forces placed a high priority on curbing any and all political opposition. Operations were thus conducted not only against opponents of the South African state but also against those perceived as threatening the relevant homeland government. As homeland police forces became more politicised, they also tended to become more militarised. Normal crime-combating procedures were often subordinated to the perceived requirements of 'national security'.

48 Third, homeland police forces were generally alienated from, and hostile to, the communities they served. Homeland policing was largely authoritarian, with a track record of violence and brutality even in routine criminal cases. In the minds of many homeland residents, the police were living symbols of a repressive and unjust system. Because of routine heavy-handedness, most community members – and not just political activists – lived in fear of the police.

49 Finally, as revealed in the evidence before the Commission, homeland police – like their counterparts in South Africa – were generally above the law. While homeland police buttressed weak and often authoritarian elites, so too did homeland politicians manipulate institutions, particularly the judiciary, in order to protect the police. As a result, homeland police forces were not held accountable to the law they purportedly upheld or to the citizens whom they were created to serve.

## ***Homeland armies***

50 To substantiate the semblance of independence, African armies were created in each of the TBVC homelands. The Transkei Defence Force (TDF) was established in 1975, followed by the Bophuthatswana Defence Force (BDF) in 1977, the Venda Defence Force (VDF) in 1979 and the Ciskei Defence Force (CDF) in 1980. Each maintained a sizeable number of enlisted soldiers and was supported by the necessary staff complements such as intelligence and logistics.

51 The existence of these armies raised profound questions of strategy and security for the South African state. Indeed, if the homelands attained any semblance of real independence, then by implication their governments would be free to pursue defence policies that might diverge from those propounded by the security structures of the central state. The South African government sought to resolve this dilemma by rendering the homeland armies dependent on the SADF for equipment, training and leadership. The Republic also sought to tie the independent homelands into regional defence agreements. As originally formulated by the Botha administration, the aim was to create a 'constellation of states' throughout southern Africa, united in a common defence against the Communist onslaught.

52 In 1982, this programme was scaled down to multilateral co-operation agreements between South Africa and the TBVC states. The agreements covered a range of issues, but security matters were at their core. When eventually finalised, the arrangement explicitly linked defence co-operation with the co-ordination of labour mobility, development initiatives and monetary stability. Multilateral agreements were supplemented by the signing of extradition treaties and South Africa's erection of fences on the borders of homelands adjoining neighbouring African countries. The agreements were founded on two fundamental provisions: first, that the South African and homeland governments would not use armed force to challenge each other's political or territorial sovereignty, and second, that neither party would allow its territory to be used as a staging ground for attacks on the other by third parties.

53 From their establishment in the late 1970s until well into the 1980s, homeland armies developed rapidly along lines generally approved by Pretoria. In this period the TBVC armies did not pose political or security threats to the South African government. By 1982, the Defence White Paper explicitly acknowledged the government's favourable view on the contribution of the homeland armies. It stated that "the SADF recognises the supportive capabilities of the Independent

States and encourages their participation in an overall Southern African military treaty organisation against a common enemy". By this time, the bantustan militaries had been integrated into the SADF's 'area war' strategy, designed to counter the threat posed by the armed struggle of the African National Congress (ANC).

- 54 The 1st Transkei Battalion was established some time after the Transkei formally acceded to 'self-governing' status in 1963. At independence, the battalion had a total complement of 254 men, of which all of the officers were white seconded members of the SADF. By 1977, a voluntary national service scheme was introduced and the training of recruits within the Transkei was increased.
- 55 From the outset, diplomatic squabbles between Transkei and South Africa complicated their military relationship. In April 1978, Transkei broke off all diplomatic relations with South Africa, ostensibly over Pretoria's decision to incorporate East Griqualand (historically part of the Cape) into Natal rather than Transkei. Consequently, Matanzima renounced Transkei's non-aggression pact with South Africa and expelled all twenty-seven of South Africa's advisors to the TDF's 320-strong army. These moves were belied, however, by the Transkei's continued dependence on South Africa for arms.
- 56 Following the departure of South African personnel, the discipline and efficiency of the Transkei forces rapidly deteriorated. Senior officers were accused of attempting to defraud the homeland government of R3 million and of involvement in an attempted police coup in 1980. In the absence of the SADF members, the Transkei hired former Rhodesian Special Forces members through a private company, Security Services International. This group, headed by Lieutenant Colonel Ron Reid-Daly, had close links with SADF Military Intelligence (MI) and was probably acting with SADF approval if not active support. Reid-Daly, the former commander of the Selous Scouts, was appointed as the chief of the TDF and charged with reorganising the homeland's army, bringing with him some thirty-five colleagues who had served in Rhodesia.
- 57 By 1980, Transkei and South African politicians had papered over the diplomatic break and re-established official contact. The rapprochement was ostensibly based on South Africa's willingness to re-negotiate land issues with the Transkei. However, at least as important was the financial crisis that had engulfed the homeland as a result of its break from Pretoria. South Africa's transfer of R118 million to the Transkei in April 1980 was not without its own costs, however. The payment ended a deal whereby the Transkeian government would have received a loan

from Nigeria (considered a hostile source by South Africa) to help finance a harbour, train the army and police, and establish a Nigerian military presence in the homeland.

- 58 Transkei's return to the South African fold, nonetheless, brought its own rewards for the TDF. In the 1982/3 financial year, the TDF received R50 million from the Economic Co-operation Promotion Loan Fund, and a further grant of R30 million above its budgeted allowance to build up its counter-insurgency capabilities. Meanwhile, general recruitment was stepped up and, in June 1983, a record 400 trainees passed out of the Transkei School of Infantry. A second officer cadet course was in progress and, in July, a parachute course was established. Soon, in addition to its 1st Battalion and a Special Forces Regiment, the TDF boasted a small naval unit.
- 59 Although the Transkei took the lead in establishing local forces, homeland armies were being created in the other TBVC states. On Chief Lucas Mangope's request, the South African government began military training in Bophuthatswana in 1976. The SADF set about creating a National Guard, with the goal of providing basic training for 221 men in time for the independence ceremonies in 1977. Some thirty South African officers and non-commissioned officers supervised the group. The first African non-commissioned officers were subsequently selected and eight officer candidates were provided with further instruction. Training initially occurred at a base near Mafikeng, although some members of the National Guard later received specialised counter-insurgency training in South Africa. The force's equipment was donated by the SADF.
- 60 Two years after independence, the National Guard was reconstituted as the Bophuthatswana Defence Force (BDF). At the time, it consisted of an infantry battalion (50 per cent of whose members had been trained in counter-insurgency), a training unit and a logistics section. From the start, its commanders were South African. Former SADF Brigadier Hugh Turner was appointed commanding officer while Brigadier Riekert, another former SADF member, became Minister of Defence. Brigadier FEC van den Bergh, senior officer in the SADF's North Western regional command, was named military advisor to Mangope. Because of these developments, one analyst has concluded that, in effect, the BDF constituted a unit of the SADF's North-West Command.
- 61 Given Venda's strategically important location, near to both Zimbabwe and Mozambique, the South African authorities were especially concerned to limit the potential security risks posed by independence. As a result, a strip of land bordering

the Limpopo was excised in 1978. Furthermore, the SADF remained operative in Venda from a base at Madino. From its inception, South Africa regarded Venda as a ‘buffer state’, which shared borders with potentially hostile neighbours.

- 62 In addition to its continued presence, the SADF established an infantry battalion as the core of a future army for Venda. By independence, the nascent military, consisting of 450 men, was combined with the police, traffic wardens and prison warders to form the Venda National Force (VNF). The VNF was placed under the command of a former South African security police officer, Lieutenant Colonel Mulautzi. However, in 1981, a separate Venda Defence Force (VDF), incorporating the infantry unit, was established under the command of Brigadier PG Steenkamp, formerly with the SADF. A counter-insurgency unit was subsequently created which served in the Namibia/Angola operational area. Shortly thereafter, a second infantry unit was established together with an air wing and a logistics team. At least thirty-nine seconded South Africans occupied leadership positions within the enlarged force.
- 63 At Ciskei’s independence, a newly established infantry unit and a ‘special air-borne group’ formed part of the Ciskeian Combined Services (CCS). The military components of the CCS were reconstituted as the Ciskei Defence Force (CDF) in 1982. Control over the new security force appears to have been more complex than in other homelands. While command of security forces had generally been given to seconded South African officials, Major General Charles Sebe assumed control over the CCS in Ciskei. Although he had served about twenty years in the South African security structures, at the time of his appointment Sebe was not a formally seconded member of a South African security force. This, at least in theory, weakened South Africa’s direct control over the Ciskeian forces. It appears, however, that Sebe was probably working very closely with the South African security forces (see section on Transkei and Ciskei). Moreover, Charles Sebe being brother to President Lennox Sebe, the ruling family’s infamous squabbles carried over into the security forces.
- 64 With respect to the self-governing homelands, by the late 1970s the South African government had abandoned its opposition to arming black soldiers within the SADF. By 1978, a small unit of Africans, originally trained at the Prisons Service Training Centre, had been reconstituted as the 21 Battalion and assumed responsibility for training new African recruits. By early 1979, the government approved a plan to form a number of regional African battalions, each with a particular ethnic identity, which would serve under regional SADF command. This led to the formation of the 121 Battalion for Zulus, the 111 for Swazis, the

112 for Venda, the 113 for Shangaan, the 115 for Ndebeles, the 151 for Southern Sotho and the 116 for Northern Sotho. These complemented the Lusophone 32 Battalion that had been secretly formed in 1976. All of these units were to be employed in operational areas, and the 21 and 32 Battalions in particular played significant roles in Namibia and Angola. Subsequently, two additional Northern Sotho Battalions were established, the 117 and the 118, while the 116 was converted into a multi-ethnic unit. In spite of these developments, the SADF remained an overwhelmingly white army.

65 In addition to the specialised SADF units for recruiting troops from the self-governing territories, the SADF maintained bases near each of these territories. According to information from the SADF, bases responsible for the self-governing territories were: Gazankulu - Group 14 in Pietersburg; KaNgwane - Group 33 in Nelspruit; KwaNdebele - Group 15 in Pretoria; KwaZulu - Group 27 in Eshowe; Lebowa - Group 14 in Potgietersrus; QwaQwa - Group 36 in Ladybrand.

66 While the self-governing homelands did not get their own defence forces, KwaZulu's Chief Mangosuthu Buthelezi called for a KwaZulu army to keep order in schools during a period of class boycotts in 1980, and said it was time for Inkatha to establish training camps. He also made subsequent calls for paramilitary groupings to be set up.

### **Responsibility for gross human rights violations**

67 The table below indicates the percentage of types of gross violations reported to the Commission for this period (1976-82):

	Abduction	Killing	Severe ill treatment	Torture	Total
Homeland	3%	7%	74%	16%	100%
Non-homeland	4%	19%	44%	37%	100%

68 The table shows very similar trends in violations to the table for the period 1960-75. Severe ill treatment remains the main violation in the homelands, while severe ill treatment and torture are both key violations in the non-homeland areas.

69 Figure 153 shows a marked increase in violations reported to the Commission in the self-governing Lebowa homeland, along with substantially fewer violations in the other areas. However, it should be noted that there were fewer violations in homelands reported to the Commission in this period than in any other. Figure 160 shows that the main perpetrators for this period were the homelands police and the SAP. Together these graphs indicate that most of the homeland violations for this period probably related to violations by police in Lebowa, which was granted self-government in 1973.



## ■ 1983-1989: REFORM, RESISTANCE AND REPRESSION

### Historical and political overview

70 In 1978, Mr PW Botha assumed the premiership following Vorster's resignation in the wake of the Information Department scandal. Buoyed by a brief economic upswing early in his term, Botha initiated a wide-ranging, carefully calculated period of reform. Explicitly controlled from above, Botha's cautious reforms were designed to give form to his famous call for white South Africa "to adapt or die". Botha's so-called Total Strategy combined limited political concessions to non-whites with increased militarisation to counter opposition at home and abroad. However, by 1983, Botha's cautious reformism lay in tatters. Far from neutralising the perceived 'total onslaught' against the state, opposition to the government and its policies peaked in the form of a widespread popular uprising that continued throughout the decade. The homelands were not immune to the rising tide of resistance.

71 Like urban South Africa, the homelands witnessed a peak in political activity in this period. In part, opposition in the homelands was spurred on by developments elsewhere in the country, especially in the townships. However, developments internal to the homelands were at least as important in politicising bantustan populations.

72 Despite reformist initiatives in other spheres, the Botha administration did not dramatically alter the state's homeland policy. Throughout this period, the traditional tools of influx control, denationalisation and independence remained the pillars of government policy towards the homelands. Perhaps the most important policy development in this period was the government's increasing reliance on incorporation to consolidate and strengthen the homelands. As demonstrated numerous times, however, the new tactic of redrawing boundaries to enlarge the homelands only created new or fuelled existing opposition in the affected areas. The conflict in KwaNdebele and Moutse in the mid-1980s dramatically illustrated this dynamic.

73 Because of increased resistance, combined with the continued growth of homeland forces, the security situation in all of the homelands deteriorated dramatically. The highest number of homeland gross violations of human rights reported to the Commission was for the period 1983-1989. In addition to the increase in resistance and repression, the homelands posed increasing security concerns for the South African government, proving to be dangerously unstable. In a number of cases, the very security forces created by South Africa to defend homeland rule rose up to challenge incumbent homeland governments. In Bophuthatswana and the Ciskei, South African forces put down several attempted coups. Meanwhile, South African security force personnel were implicated in fuelling a series of cross-border raids between Ciskei and Transkei during the SADF's *Operation Katzen*. By the end of the period, Major General Bantu Holomisa of the TDF had engineered the first successful coup when he deposed Stella Sigcau's Transkei government in December 1987. More coups would follow in the 1990s.

74 In KwaZulu, Inkatha became increasingly alienated from the ANC and the United Democratic Front (UDF) and Chief Buthelezi began to turn towards the South African government for more assistance. Covert assistance to Inkatha from the SADF MI's Directorate of Special Tasks (DST) began during this period, through *Operation Marion*, and involving the training of paramilitary style units in the Caprivi, Namibia, which were subsequently deployed in KwaZulu. Years later, some of these recruits were taken into the KZP. DST, which had also been responsible for *Operation Katzen* in Transkei and Ciskei, was responsible for support to external

covert groupings such as RENAMO in Mozambique, UNITA in Angola and the Lesotho Liberation Army in Lesotho.

## Development of security forces

### ***Homeland police forces***

- 75 Throughout this period, homeland police forces continued to expand, both in size and importance. With the transfer of policing authority to KwaNdebele and KaNgwane in 1986, all of the homelands supported their own police forces. By the end of the decade, these forces had grown to considerable size. One analyst has reported that by 1990, the Transkei Police employed 3 300 police officers, the Venda and Ciskei forces each numbered 2 000 and Bophuthatswana boasted the largest force with 5 300 police officers. Another observer estimated that by the early 1990s approximately 20 000 black police officers served in the ten homeland forces.
- 76 It was also during this period that the Caprivi trainees from *Operation Marion* in KwaZulu were recruited as special constables and formally brought into the security structures. In 1988, some 300 Inkatha supporters were recruited as special constables, including 130 of the Caprivi trainees. This influx could account for some of the large increase in spending on policing in KwaZulu during this period (see budgets below).
- 77 The SAP continued to operate in the self-governing territories. In KwaZulu, the SAP's Riot Unit 8 actively assisted Inkatha members in attacks on non-Inkatha residents.

78 As homeland forces struggled to cope with the rising tide of mass resistance, an ever increasing amount of money was funnelled into homeland policing. The following tables chart the dramatic annual increases that characterised expenditure by homeland police forces.

#### **Police budgets in three of the independent homelands (in rands)<sup>3</sup>**

Source: South African Institute of Race Relations Annual Surveys

Year	Bophuthatswana	Transkei	Venda
1982/83	12 257 950	15 172 000	19 800
1983/84	24 103 560	17 941 000	4 025 169
1984/85	36 680 180	20 024 000	9 310 100
1985/86	33 152 296	26 385 000	9 000 500
1986/87	33 433 296	33 391 000	13 482 200
1987/88	48 794 876	36 711 000	19 241 800
1988/89	64 897 000	49 917 000	23 859 900
1989/90	104 917 000	65 430 000	38 205 400

79 Police budgets in the self-governing homelands rose steadily as well, as the following table indicates.

#### **Police budgets in self-governing homelands (in rands)**

Source: South African Institute of Race Relations Annual Surveys

Year	Gazankulu	KwaZulu	Lebowa	Ka-Ngwane	Kwa-Ndebele	QwaQwa
1982/83	3 414 000	6 000 000	6 210 000	n.a.	n.a.	n.a.
1983/84	4 926 000	5 646 300	7 575 527	n.a.	n.a.	n.a.
1984/85	5 780 000	6 331 700	8 926 000	n.a.	n.a.	1 455 000
1985/86	6 724 000	11 040 000	9 519 000	n.a.	n.a.	2 450 000
1986/87	7 169 000	12 144 000	17 578 000	n.a.	n.a.	3 080 000
1987/88	8 363 000	18 116 000	29 097 000	4 539 700	4 327 000	3 600 000
1988/89	12 325 000	35 454 000	46 319 000	8 885 000	19 000 000	5 500 000
1989/90	15 888 000	46 515 000	52 424 000	14 447 000	19 000 000	8 710 000

80 In accordance with their increased size and expanded budgets, homeland forces played a significant part in this period's intensifying repression. As examined in greater detail in the section below, gross violations of human rights statements received by the Commission confirm the central role of homeland police forces

<sup>3</sup> The Ciskei has not been included, as its police budget is inseparable from the budget for the entire Justice Department until 1991/92.

in security operations. In a period that recorded the most gross violations of human rights, almost half of all perpetrators identified by victims were affiliated to a homeland police force.

81 As homeland forces expanded in size and assumed a larger operational role, they became increasingly politicised, focused on counter-insurgency, alienated from local communities and aloof from independent restraint. As South Africa's 'securocrats' turned to strategies of counter-revolutionary warfare in the mid-1980s, these characteristics were further enhanced. This process is aptly demonstrated by developments in the KZP.

### ***Homeland armies***

82 Like their police counterparts, the independent armies of the TBVC homelands also increased in size from their humble beginnings in the late 1970s. However, as the following tables show, homeland armies generally enjoyed less personnel power and financial resources than their colleagues in the police did.

#### **Size of TBVC armies relative to homeland police forces, 1990 estimates**

<b>Homeland</b>	<b>Defence Force Size</b>	<b>Police Force Size</b>
Bophuthatswana	3 500	5 300
Venda	1 800	2 000
Transkei	3 500	3 300
Ciskei	2 000	2 000

83 In total, thus, the homeland armies were quite small, never exceeding 11 000 soldiers. In comparison the SADF contained over 100 000 members in the mid-1980s.

#### **Defence budgets of the independent homelands (in rands)**

Source: South African Institute of Race Relations Annual Surveys

<b>Year</b>	<b>Bophuthatswana</b>	<b>Ciskei</b>	<b>Transkei</b>	<b>Venda</b>
1982/83	10 028 150	17 100 000	7 868 000	6 110 900
1983/84	12 094 600	31 000 000	11 184 000	6 971 000
1984/85	23 001 040	10 300 000	16 025 000	7 415 600
1985/86	18 302 880	9 000 000	20 277 000	10 316 400
1986/87	27 485 880	10 169 000	44 707 000	15 126 900
1987/88	41 111 233	25 483 000	40 695 000	27 781 700
1988/89	50 819 000	33 831 000	59 275 000	29 527 300
1989/90	74 371 000	47 633 000	55 003 000	34 039 600

84 Although this table charts rising defence expenditures over the course of the decade, it should be noted that levels of defence spending generally trailed the budgets of homeland police forces. By and large, homeland armies were only very basically equipped and their infantry platoons – the largest forces in all of the armies – were used primarily in counter-insurgency operations. Security concerns of the South African government no doubt tempered the growth of the various bantustan armies. As the TBVC defence forces relied on the South African state for finances, training and equipment, it was easy for the central government to direct the evolution of the armies, all the while ensuring that the security of the Republic would never be threatened.

85 The homeland armies played an important role in the ‘area war’ concept guiding SADF strategy. Convinced that the liberation armies would not wage a border war, the SADF hierarchy stressed the need to organise security forces and civilian auxiliaries on a regional basis in order to combat insurgency wherever and whenever it appeared. South Africa was accordingly divided into ten territorial regions, each of which was designed to act as a first line of defence for the Republic. Although not officially acknowledged at the time, the TBVC armies as well as the SADF’s black battalions were each assigned to a territorial region in terms of this plan.

86 With respect to the operation of the homeland defence forces, several points should be noted. First, when called upon, homeland armies worked with South African security forces in joint operations against perceived guerrillas. For example, Lieutenant Colonel Mulaudzi, the commander of the Venda National Force (VNF) stated emphatically that Venda would not hesitate to call on the assistance of the SADF if insurgents crossing their borders threatened their sovereignty. By 1980, the VNF included an anti-insurgency unit, which concentrated on anti-guerrilla warfare and patrolling the borders. Throughout the 1980s, the Venda Defence Force co-operated with South African security forces in detaining, interrogating and at times killing guerrillas suspected of using the homeland as a base for skipping or infiltrating the Republic.

87 Second, at times South Africa used the homelands, particularly the independent bantustans, as springboards for military operations against front-line states. For example, in 1984 Lesotho claimed that the South African-supported Lesotho Liberation Army (LLA) was using the Transkei as a base for assassination squads operating in the mountain kingdom.

88 Finally, following the outbreak of widespread unrest in the mid-1980s, the homeland armies were increasingly used to assist police forces in suppressing internal opposition. Not only were such operations explicitly condoned in the various homelands' defence acts, but legislation was often enacted to indemnify security force members from civil or criminal prosecution for acts committed in 'good faith' while 'maintaining law and order'.

89 However, the overall significance of the role of homeland armies in the political calculus of the homelands proved most important. At various times, all four of the independent homelands witnessed coups of varying success. Although the immediate reasons advanced for the coups varied, several threads run through the different experiences. First, homeland armies generally played a much more prominent role in coup attempts than their police counterparts. Second, corruption within homeland administrations was frequently cited as a motivating factor. Finally, coups exposed the fractured and weak nature of homeland administrations. More often than not, coups originated with the cleavages already present in regimes with questionable legitimacy. As an important elite within homeland politics, and one of the few institutional actors with sufficient resources to mount a political challenge, homeland armies were often forced into the role of king-maker or king-protector. Of course, homeland armies were not alone in this regard. Ultimately the South African state, through the SADF, remained the final arbiter in times of political uncertainty.

## **Responsibility for gross violations of human rights**

90 The table below indicates the percentage of types of gross violations which were reported to the Commission for this period (1983-89):

	Abduction	Killing	Severe ill treatment	Torture	Total
Homeland	6%	22%	52%	20%	100%
Non-homeland	3%	23%	50%	24%	100%

91 The table indicates a sharp increase in killings in homelands for this period, bringing them in line with the rest of the country. Severe ill treatment in the homelands drops (from 74 per cent of homeland violations in the 1976-82 period to 52 per cent), while torture and abductions remain similar to the last period.

92 Figure 154 shows a sudden and dramatic increase in the number of violations reported in KwaZulu (note that the scale on this graph has changed since the last in this series, indicating a substantial increase in violations reported). KwaNdebele also shows a large number of violations in that region: see the separate section on KwaNdebele below for more on these conflicts. Figure 161 shows a huge increase in the number of violations ascribed to the liberation movements and Inkatha in this period. However, the homelands police are still the main perpetrator group and, when the SAP perpetrator group is taken into account, it is clear that the security forces are still the main perpetrators in the homelands for this period.



## ■ TRANSKEI AND CISKEI

### 1960-1982

93 Whatever the South African government's reasons, publicly-stated or hidden, for encouraging homeland independence, by the time of Ciskei's independence ceremonies in December 1981, it was clear that the homelands were also to be used as a more brutal instrument for suppressing opposition. Both Transkei and Ciskei used additional emergency-style laws to silence opposition in the run-up to both self-government and later independence. By the mid-1980s, a clear pattern of brutal suppression of opposition had emerged in both homelands, with South Africa frequently washing its hands of the situation on the grounds that these were 'independent' countries.

94 Both homelands borrowed repressive South African legislation initially and, in addition, backed this up with emergency-style regulations passed with South African assistance before independence (Proclamation 400 and 413 in Transkei which operated from 1960 until 1977, and Proclamation R252 in Ciskei which operated from 1977 until 1982).

95 The emergency Proclamations 400, 413 and R252 appear to have been retained in the Transkei case and introduced in the Ciskei in order to suppress legal opposition at the time of attainment of self-government status.

96 Police in the homelands (initially SAP and later the Transkei and Ciskei Police) targeted political opponents rather than criminals, as the SAP did in South Africa.

97 Homeland legislation eventually passed was sometimes more repressive than parallel legislation used in South Africa. For example, when commenting on the replacement of Proclamation R252 by the Ciskei National Security Act of 1982, Haysom commented that "this Act contains most of the much criticised features of the South African security legislation and a good few more besides"<sup>4</sup>. This law enabled among others detentions, bannings of individuals and organisations, and limits on the right to strike. Most of the powers were exercised on the discretion of the commander general of national security, Charles Sebe.

98 Police in homeland areas acted with extraordinary brutality, possibly because these regions were so often ignored by the rest of the country. For example, the Pondoland Revolt of 1960 and events in subsequent years elicited a venomous backlash from the police (still the SAP in the early years), with police assaulting detainees so badly that it appears they cared little whether detainees lived or died. The Human Rights Commission (HRC) records thirty-two deaths in detention between 1976 and 1982. The Eastern Cape accounted for eight of these (25 per cent) with five of the eight in the two homelands (four in Transkei, one in Ciskei and three in Port Elizabeth).

99 While South Africa proper tended to use repressive legislation primarily against extra-parliamentary opposition, the homelands also used such legislation to act against election and parliamentary opponents: the opportunities for opposition were thus extremely limited.

100 Forms of organisation and extra-parliamentary opposition that were legal in South Africa, although often harassed, were *de facto* and sometimes *de jure* illegal in the homelands. For example, when unions started organising in Ciskei in the late 1970s, unionists were initially targeted for severe harassment, detention and torture and by 1983, SAAWU had been banned. In Transkei, unions could not operate at all until after the more benevolent military rulers took over. In both territories, the UDF simply did not have a presence, due to the impossibility of organising there.

<sup>4</sup> Nicholas Haysom, *Ruling with the whip: Report on the violation of human rights in the Ciskei*, CALS, October 1983.

- 101 The homeland authorities had open links with vigilante groups and encouraged them to operate; this was particularly the case in Ciskei. The Ciskei government went so far as to make facilities available to the vigilantes: the use of the Mdantsane stadium as a base for the Green Berets in 1983, the use of a training camp for the Zwelitsha vigilantes in 1985 along with an MP to work with them, and the use of a military base and a private security company as trainers in the 1990s. These vigilantes were, in all cases, used to target opposition to homeland authorities (unionists and commuters in 1983, members of progressive youth structures in 1985 and ANC members in 1990).
- 102 The use of chiefs was an essential part of control in the homelands. Chiefs were granted additional powers, including the key authority over land allocation; communities without chiefs (such as Group Four in Thornhill, Ciskei) were refused access to services. Chiefs were also sometimes used in recruiting vigilantes in rural areas. Conflict between chiefs and communities sometimes became so great that chiefs and headmen were armed (such as in Ciskei during 1983 and later under military government in the 1990s).
- 103 The cult of personalities seems to have been far stronger in the homelands than in South Africa proper. In Ciskei in the early 1980s, Major General Charles Sebe was the overall security force commander and operated as a dictator: the powers of the Ciskei National Security Act of 1982 were exercised on Sebe's discretion<sup>5</sup>. Under the initial governments, family connections were powerful (Ciskei ruler Lennox Sebe first appointed his two brothers to key positions and then arrested them, while Transkei rulers Kaiser and George Matanzima had ongoing spats) and splits were later exploited by both homeland and South African security forces. In both Ciskei and Transkei, bribery reflected the importance of gaining the favour of the ruler of the day. Under the military dictatorships, this trend was even more obvious as they ruled by decrees, some of which appear to have been issued on whims.
- 104 South African security forces co-operated with homeland security forces in handing over political detainees. In some cases, this appears to have been done in order to prevent the families or lawyers of the detainees from ascertaining their whereabouts. Some of these handovers were clearly illegal.
- 105 The border issue was used by South African authorities to prevent criminal prosecutions of security force members implicated in criminal actions against political activists in homelands. One example is the failed prosecution of the

<sup>5</sup> Haysom (1983).

killers of student leader Bathandwa Ndondo in Transkei. Another is the killing of MK guerrilla Stembele Zokwe in Butterworth. One of the police suspects in this case escaped from jail and fled across the border to be offered employment in a covert SADF military operation based in Bisho.

- 106 While the police tended to operate in overt and brutal ways (detentions, torture, and assassinations), by the mid-1980s, the South African military was learning how to manipulate the separate Ciskei and Transkei security forces and ultimately the politicians in the region. Such military activities became even more sophisticated in the 1990s when the need for a clandestine method of destabilising the now-legal ANC arose. The independent homelands provided a perfect loophole for this.
- 107 While homeland police clearly often copied the methods practised by their big brothers in South Africa, the homelands also appear to have been used as a training or experimental arena for the SAP (for example, methods of torture such as hanging suspects from trees, used in Pondoland, were repeated a decade later in Pietermaritzburg; poisoning of detainees was used in Pondoland in the 1960s and may have been a forerunner to poisonings in South African detention such as that of Mr Siphiwe Mthimkulu in Port Elizabeth in 1981).
- 108 In addition to using the homelands for one-step-removed repression, during the apartheid years the South African military also experimented with ways of using the independent homeland security forces to break the arms embargo.

### ***The Pondoland Revolt***

- 109 The so-called Pondoland Revolt took place in Pondoland in eastern Transkei in the late 1950s and early 1960s (see Volume Three). This was an extended uprising by Pondoland groups – particularly ANC supporters who referred to themselves as *iKongo* members – against the imposition of tribal authorities and impending self-government for Transkei. Numerous incidents of violence took place during 1960, including clashes between security forces and *iKongo* members, attacks by *iKongo* members on chiefs and those regarded as collaborating with chiefs or police, and the destruction of *iKongo* members' homes by chiefs. Legal methods used by the security forces to crush this revolt included the declaration of a state of emergency on 30 November 1960, widespread detentions, criminal prosecutions and banishment of families. Illegal methods included torture in custody (primarily in detention), deaths in custody, apparently due to treatment received, and the use of unnecessary force in public order policing. The over 200 statements received

by the Commission in connection with this matter indicated that torture, killings and disappearances were a key feature of security force responses to this revolt.

- 110 On 6 June 1960, conflict developed between security forces and *iKongo* members at Ngquza Hill in the Lusikisiki region of Pondoland, when security forces broke up an *iKongo* meeting. One *iKongo* member, Mr Clement "Fly" Gxabu [EC0882/96ETK] told the Commission in an interview that the government delegation expected by the meeting did not arrive; instead the security forces moved in and broke up the meeting. Most accounts indicate that the meeting was teargassed from aircraft, after which police on the ground moved in, some of them opening fire, killing at least eleven *iKongo* members.
- 111 An inquest subsequently found that at least some of the dead had been killed by fire from Sten guns<sup>6</sup>. Gxabu also told the Commission that security force members had parachuted from the aircraft. It seems clear that the SAP were involved in this incident, although the extent of their involvement is not. The SANDF told the Commission that: "In the sequence of events it is clear that the SADF was over the said period definitely not deployed in the Transkei". However, the aircraft used in the operation must have been SADF aircraft used in support of police operations (the SAP had no aircraft at that time) and, if there were any parachutists, these were probably SADF members. The SAPS said they had no knowledge of the use by police of Sten guns in 1960. According to the SANDF, both police and military were armed with Sten guns.

*Sten Sub Machine Guns were only issued to the Platoon Leaders (Lieutenants) and Platoon Sergeants of which, according to the strength of the SADF elements, there were about eight in total. The troops were issued with .303 rifles. From memory, it seems that the SAP was issued with 9mm Sten Sub Machine Guns.*

- 112 It seems probable that the shooting was carried out by the police as, if the SADF were involved in this incident, they were probably involved as backup to an SAP operation as was standard procedure<sup>7</sup>. The SAPS said it had no records from this period, but said both military and police were involved:

*Information received is that the police and soldiers were operating jointly to arrest the Pondo people. Information further indicates that soldiers were not interested to go for negotiations; as a result people were shot dead.*

<sup>6</sup> Mbeki (1964), Southall (1982) and Geoffrey Wood "The horsemen are coming: Rethinking the Pondoland rebellion" in Contree 33, May 1993, and statements made to the Commission.

<sup>7</sup> The SANDF provided the Commission with references to documents indicating that the SADF acted only as backup to the SAP in other operations during 1960 (detailed in SANDF response to Commission query, 11 June 1998).

113 The SANDF told the Commission that the SADF had been used in the Transkei before the Nqquza Hill incident, during *Operation Duiker* from 21 March 1960 to 7 May 1960, when six platoons<sup>8</sup> and four Saracen troop carriers were sent to Transkei. All troops had left the region by 7 May and did not return until late November when *Operation Otter* started in Durban (which involved air support to the SAP), followed by *Operation Swivel* from 7 December 1960, which continued at least until early January 1961. A report from the colonel in charge of *Swivel* to the then chief of army staff indicated that, from 16 to 30 November 1960, the SADF were involved in six operations that resulted in the detention of 1 330 people in the Pondoland district. At the same time, two mobile watches of 300 troops were sent to Bizana in terms of *Operation Swivel*.

114 While the SADF was present in support of the police during at least part of this period, it is clear that it was the police who had primary responsibility for dealing with the revolt. The main tool appears to have been mass detentions (Mbeki quotes official records from 27 January 1961 as stating that 4 769 people had been detained with 2 067 eventually brought to trial<sup>9</sup>). Statements made to the Commission indicate that torture was a key part of those detentions. This was supported both by the submissions handed to the Commission by Kairos and by literature on the Pondoland Revolt.<sup>10</sup> Mkambati forest was frequently named as a site of torture. This appears to have been a camp with tents in the forest during the 1960s, possibly set up during the Pondoland Revolt as a police crisis measure, later becoming an established police station. While the SAPS was unable to provide any information on the setting up of the Mkambati police station, it is understood that during the 1960s this station was under the command of Colonel Theunis Jacobus 'Rooi Rus' Swanepoel. Kairos refers to Swanepoel as a notorious police officer who played a key role in the 1960s and later became the chief interrogator of the SAP's Security Branch.<sup>11</sup>

115 Statements made to the Commission indicate that, immediately after the Ngquza shootings, police rounded up suspects; family members were also assaulted by police in attempts to track suspects. Statements made to the Commission reported that suspects were detained, assaulted and tortured and released still suffering the after-effects of either torture or illness (possibly tuberculosis) contracted in detention or jail. Some subsequently died; the health of others appears to have been permanently damaged. In almost half of the statements made to the

8 A platoon comprises about 30 troops.

9 Govan Mbeki, *The Peasants' Revolt*, 1964.

10 Mbeki (1964) and Roger Southall, South Africa's Transkei: *The political economy of an independent bantustan*, 1982.

11 Kairos, *Torture of detainees in South Africa 1960-1970*, November 1997, p37; *Political prisoners and detainees in South Africa*, preliminary report, November 1996, p 4.

Commission, family members made a direct connection between treatment in custody and subsequent death: the number of cases reporting this indicates that police assaulted detainees to the point of permanent injury and then released them to die at home. Others returned home mentally disturbed. These cases point towards a deliberate policy of assaulting detainees; they may have been used as experimental cases by the SAP. The cases reported to the Commission indicated that detainees who died or who suffered permanent injury may have been subjected to one or more severe assaults, untreated exposure to illnesses such as tuberculosis, electric shocks (including shocks to the head), and poisoning.

116 The Commission was not able to conduct an in-depth investigation into the allegations regarding treatment in detention; it feels, however, that this is an area that merits further investigation, particularly concerning the possibility of wide-spread and deliberate poisoning of detainees.

## **1983-1989**

117 This period saw the rise of organised vigilantes supported by the homeland authorities in Ciskei; the beginnings of SADF MI manipulation of the homelands to foster inter-homeland conflict through *Operation Katzen* in what may have been part of a national homelands military strategy; the implementation of a South African security force policy of killing rather than capturing guerrillas; an increase in the use of torture in homelands, and the first internally-initiated homeland military coups, which led to ongoing and increasingly vicious battles between the homeland and Pretoria security forces.

### ***Ciskei government policy: use of vigilantes***

118 During 1985, there was a national wave of vigilante groups starting to operate. These were generally groups which targeted UDF members and their allies.

119 Over the years, vigilantes were used on several occasions by the Ciskei authorities. Haysom records the first use of vigilantes in Ciskei as being during 1974, when vigilantes known as the "Green Berets", who were members of the ruling Ciskei National Independence Party (CNIP), assaulted Mdantsane commuters during a boycott of the local bus company. In 1977 vigilantes again emerged, this time to target Mdantsane schoolchildren who were boycotting classes in protests over Mr Steve Biko's death in detention.<sup>12</sup> While there was suspicion

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<sup>12</sup> Haysom (1983), p10; p24; p45.

that these vigilantes were linked to the homeland authorities and they appeared to act in support of the homeland government, there was no clear evidence of state support for them.

120 However, there was clear Ciskei government support for the vigilantes that operated during the July 1983 boycott of Ciskei Transport Corporation (CTC) buses in Mdantsane. The boycott started on 19 July; on 2 August, vigilantes operating under the supervision of police were brought in to run roadblocks; they were involved in assaulting commuters<sup>13</sup>. Police, army and vigilantes were used to break the boycott by assaulting commuters who used taxis, trains and private cars, and taxi drivers. The vigilantes were also given the use of the central Sisa Dukashe stadium in Mdantsane as a venue for holding detainees. Haysom reports that there was "overwhelming evidence" that the vigilantes were involved in the assault and torture of detainees at the stadium. Ciskei Minister of Justice, David Takane, denied knowledge of this, but did acknowledge that the vigilantes were operating with official endorsement. On 26 August 1983, the Ciskei Supreme Court granted two urgent applications restraining the security forces and vigilantes from harassing Mdantsane residents. The Ciskei authorities did not oppose the order.

121 At least some of these vigilantes are believed to have been recruited from government supporters in the rural regions: here the involvement of chiefs was crucial. This was another element in the increasing conflict between chiefs and their communities. By 1983, Haysom records that the tension between chiefs, headmen and the communities in Ciskei was so great that Lennox Sebe had authorised them to carry guns.<sup>14</sup>

122 Along with the national emergence of vigilantes in 1985, vigilantes with links to the Ciskei authorities re-emerged. This time the group operated in Zwelitsha and targeted those linked to progressive structures. In September, vigilantes in Zwelitsha hunted down South African Students' Organisation (SASO) activist Zandisile Matyolo [EC0105/96ELN] with the assistance of Ciskei security forces. Days earlier Ciskei police had threatened Mr Matyolo's mother that he would be killed. He was chased and killed in front of witnesses. This was an extreme case and the vigilantes were subsequently prosecuted. One of those convicted was Mr Willie Kolisile Matshekewwa [AM6437/97] who applied for amnesty for this killing. He had been sentenced to eight years imprisonment, reduced on appeal to eleven months. Matshekewwa, at the time a Ciskei MP, joined the Green Beret vigilante group in 1976.

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13 Haysom (1983) p28.

14 Haysom (1983).

*While a member of the Green Berets, I used to accommodate other members who had no homes locally as some were pulled in from neighbouring localities. Some incidents of violence occurred and I was implicated as I was housing the Green Berets. This was mostly in 1976.*

123 He said that by 1985 he was a CNIP MP and was not involved in Green Beret activities; however, he re-joined after Ciskei president Lennox Sebe ordered men to join the group to oppose youths who wanted to burn down schools. "Those who defied this order were harassed," said Matshekewta. He said on one occasion he had been sent by another MP to tell a police colonel

*that a contingent of guards was on their way to come and assist the police to guard schools. Further incidents of violence recurred between the guards and youths who wanted to burn down schools. These guards were subsequently called Inkatha.*

124 In July 1987, vigilantes killed activist Zola Nozewu [EC0359/96ELN] who had been involved in resistance to Ciskei rule by the Potsdam community. It is not clear how closely these vigilantes were linked to the state; however, like Matyolo, Mr Nozewu was killed after police warned his family he would die if he did not leave politics alone.

125 When military ruler Brigadier Oupa Gqozo deposed Sebe's government, the use of state-sponsored vigilantes continued. When the clashes between Gqozo's government and ANC supporters became increasingly bloody during 1992-94, Gqozo hired a private security company – Peace Force – to guard government installations and to recruit and train members of the government's African Democratic Movement (ADM), which acted as a vigilante force. As with the 1983 vigilantes, rural chiefs and headmen were crucial in recruiting these trainees. This group was given training by Peace Force at the CDF military base on the coast, next door to Gqozo's private farm, and was armed with shotguns. Later Gqozo's security forces also armed headmen with G3 rifles.

#### ***Ciskei policy: targeting entire communities to subdue dissent***

126 On several occasions during the 1980s, Ciskei targeted entire communities opposed to homeland rule – often communities that had been subjected to forced removals or incorporation into the homeland.<sup>15</sup>

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<sup>15</sup> See, for example, Africa Watch *Ciskei: Ten years on - Human Rights and the fiction of 'independence'*, Vol III, Issue no. 16, 20 December 1991.

127 In the mid-1980s, the Kuni community was evicted from Ciskei en masse and dumped at the roadside in South Africa, where they later found a home at Needs Camp outside East London.

128 In 1987, a large group of residents fled at least twice from Potsdam outside Mdantsane following assaults by police and vigilantes. South African security forces forcibly loaded the group onto trucks and drove them back to Potsdam. In April 1989, they were granted permanent residence at Eluxolweni in South Africa. This group had some years earlier been forcibly removed across the border into Ciskei.

129 In August 1988, the Ciskei borders were redrawn to incorporate the Nkqonqkweni village at Peelton near King William's Town. In drawing the Ciskei boundaries in 1981, the village had inadvertently been split in two. The redrawing of the border was to enable the South African government to banish UDF activist Steve Tshwete to his home village of Nqonqkweni in Ciskei rather than Nqonqkweni in South Africa. In the following year, Nqonqkweni residents complained of repeated assaults by Ciskei forces. This eventually resulted in a mass exodus of residents to King William's Town. Ciskei declared a state of emergency in the Peelton area and violence and bulldozing of rebels' houses followed. In a court case arising out of the conflict, the Ciskei Supreme Court found against Mr James Fikile Phindani, a resident of Peelton village, who had been evicted from his home and dumped across the South African border by the Ciskei security police in 1989, and approved the passing of a retrospective law which allowed the Ciskei authorities to do this. Eventually the incorporation issue was quietly dropped and residents returned home.

130 The Peelton conflict was the beginning of widespread rural rebellion against Ciskei president Chief Lennox Sebe's rule, which resulted in initial popular support for Brigadier Oupa Gqozo, who overthrew Sebe's government in March 1990.

131 A press report from 1989 commenting on the battles by various communities to escape Ciskei rule said:

*It's not hard to find the reasons why the communities are so desperate to leave. On the one hand, there is widespread objection to the whole notion of an 'independent' Ciskei. On the other, there are massive practical problems associated with the homelands ... [T]he territory's social benefits and facilities are generally inferior to those of South Africa. For example, old age pensions are substantially lower than in South Africa.*

*Ciskei also demands several different types of taxes - ranging from 'development tax' to membership of the ruling Ciskei National Independence Party (CNIP). Those without the notorious 'CNIP card' may often find themselves barred from benefits and even housing.*

*Far worse are the extremely common allegations of assaults and routine harassment – particularly of resisting communities – by Ciskei authorities. Often the Ciskei police and army are accused of acting together with vigilante groupings.*

*CNIP membership also seems to be used by Ciskei as a measure of loyalty to the territory. There are repeated stories of communities brutalised by Ciskei authorities for refusing to pay taxes and CNIP membership.*

*Again and again, the same allegations against Ciskei are repeated. Frequently people talk about being in fear of their lives, and however bad conditions may be in South Africa, life across the border is always seen as a better option.*

*Pensioners complain of their pensions being docked. Refugees from the Potsdam grouping, who three times fled Ciskei, claimed they were refused treatment at clinics, their children turned away from school. Community leaders were murdered.<sup>16</sup>*

### ***Military policy: destabilisation through Operation Katzen***

- 132 In January 1983, Brigadier Christoffel Pierre 'Joffel' van der Westhuizen moved to Port Elizabeth to take over as officer commanding of the SADF's Eastern Province Command. In attendance at his taking-over ceremony were Ciskei security chief General Charles Sebe and Major General Ron Reid-Daly of the TDF. Over the next few years, these three men were to work together on Van der Westhuizen's ambitious *Operation Katzen* plan, drafted in an attempt to retain SADF control over both the Transkei and Ciskei and to use the homelands as a bulwark against the rising tide of popular resistance.
- 133 Charles Sebe had a meteoric rise to power in Ciskei. He joined the SAP in 1957 at the age of twenty-three and was transferred six years later to the security police. He was based in Port Elizabeth for some time. In 1974, he joined the

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<sup>16</sup> East London News Agency, 16 May 1989.

Bureau for State Security (BOSS) and worked in King William's Town where he was involved in investigating the Black Consciousness Movement. In October 1978, he was transferred to the new Ciskei administration where he founded the Ciskei Central Intelligence Service with only three men. By 1979, he was a colonel and the Ciskei police were under his control. By the end of 1981, he was a major-general and in September 1982 (following Ciskei independence and the passing of the National Security Act of 1982) he was promoted to lieutenant general and then to a new position of Commander General in control of all the armed forces in Ciskei, a total of about 4 500 men. As Commander General, he was paid about R3 500 per month.

- 134 As an SAP member, Sebe said he "carried my promotions in my pocket" (as he told journalist Joseph Lelyveld). Two years after the ANC was banned, Sebe, then an SAP member, joined the ANC and later helped arrest both ANC leader Govan Mbeki and members of the fledgling Poqo<sup>17</sup>. Sebe also appears to have been close to South African commissioner of police, General Johan Coetze: according to Lelyveld, while Sebe was in charge in Ciskei, he apparently reported directly to Coetze and was also subject to overrule by officers seconded from South Africa. Court papers in Sebe's 1983-84 trial indicated that he had telephoned Coetze, apparently in search of advice, the night before his arrest.
- 135 In July 1983, Sebe made one of his last public appearances as Van der Westhuizen's guest (this time at the SADF's seventy-first birthday celebrations). By the middle of July, Sebe had lost his total control of the security forces due to a re-shuffle in those forces on the president's orders, and his deputy was in detention. Within days, Sebe himself was detained and in June 1984 was convicted of incitement to violence, after an attempt to get his deputy released from custody. He was jailed for twelve years and leave to appeal was refused. Lennox Sebe subsequently turned down three separate appeals by South African Foreign Affairs Minister Pik Botha to show clemency towards Charles Sebe.
- 136 In January 1985, the SADF was evicted from Ciskei following the deaths of recruits at a Ciskei base, and South Africa lost its foothold in that homeland.
- 137 By 1986, Van der Westhuizen had drafted the *Katzen* plans for an operation that involved a successful jailbreak, abductions and an abortive attempt to abduct or kill Lennox Sebe, in which at least two TDF members died.

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<sup>17</sup> Joseph Lelyveld, *Move your shadow*, 1987, p162.

138 On 2 June 1986, Chief Lent Maqoma, a one-time ally of Lennox Sebe, launched his Ciskei People's Rights Protection Party; this was followed a few months later by the launch by the rebel group in Transkei of the 'armed wing' of this party, Iliso Lomzi. It seems that both were launched with MI assistance. MI subsequently printed and distributed pamphlets (including dropping them from aircraft) in support of these two groupings<sup>18</sup>.

139 In September 1986, Charles Sebe was sprung from the Ciskei's Middledrift maximum security prison by SADF members and/or ex-Selous Scouts operating from Transkei; from then on he operated from Transkei together with the rest of the *Katzen* group. The day Charles was released, Lennox Sebe's son Kwane Sebe, the head of the Ciskei Police Elite Unit and the man groomed as the successor to the president, was abducted and taken to Transkei. Three months later, Kwane was sent back to Ciskei in a homeland prisoner swap.

140 Attempts to extradite Charles Sebe back to Ciskei collapsed. The then Ciskei Attorney-General Jurie Jurgens applied for their extradition, subsequently finding that both these matters had quietly fizzled out in some political settlement. This presumably involved some pressure from the South African authorities, which had previously campaigned for Charles Sebe's pardon.

141 In January 1987, Van der Westhuizen left the Eastern Cape and took over as officer commanding of Witwatersrand Command. On 21 January, Holomisa, then second-in-command of the TDF, was detained; partly, it seems, because he opposed the *Katzen* planners. Weeks later, on 19 February, TDF troops crossed the Kei River border between Transkei and South Africa, and drove on to launch an abortive attack on Ciskei president Lennox Sebe's private palace in Bisho. It was reported that one TDF soldier died and another was captured; later South African authorities captured French mercenary Jean-Michel Desble.

142 The captured soldier, Rifleman A Ndulu, was held under guard in the Ciskei's main Cecilia Makwane Hospital in Mdantsane, then eventually sent home to Ciskei in terms of a deal apparently engineered by Holomisa. Likewise the body of the dead soldier, Mr Mbuyiselo Templeton Nondela [EC2323/97UTA], was allowed home for burial.

143 The Commission found evidence of another previously unreported death and direct SADF complicity in the raid. A TDF soldier who was badly injured in the

<sup>18</sup> Gerrie Hugo and Stef Snel, *Military Intelligence and the counter revolutionary war in the Eastern Cape*, Urban Monitoring and Awareness Committee, 1998.

failed attack, Mr David Simphiwe Makazi [EC2323/97UTA], was rushed down to East London by his fellow attackers. He was airlifted by the SADF from the East London race track and flown back to Butterworth.

144 Apart from Van der Westhuizen and the officer he reported to on *Katzen*, General Kat Liebenberg, other senior officers and officials named in the *Katzen* file as having been involved at some stage included General Jannie Geldenhuys (head of SADF Special Forces), General Griebenauw (Border regional head of the security police), General Zondwa Mtrara (head of the TDF), Vice-Admiral Dries Putter, Colonel Reg Deyzel (the officer commanding of Group Eight in East London), a former Transkei Minister of Defence and Dr Tertius Delport (then at the University of Port Elizabeth). Delport later denied any knowledge of the *Katzen* plans. In 1983-84, Delport had served as one of two assessors at the Ciskei trial after which Charles Sebe was jailed for twelve years.

145 The National Intelligence Service (NIS) also appears to have been involved in *Katzen*. One of the NIS staff was involved in at least some of the planning. An undated document headed "Top Secret", which appears to be the abbreviated notes of a meeting, lists those present as including an SADF general, an SADF brigadier, an SAP brigadier, three colonels, two commandants and an NIS representative. Another document refers to NIS involvement: "All political front actions (Lent Maqoma) will now be handled by NIS. We will continue to co-operate politically/militarily". A "Top Secret" NIS document on *Katzen*, which appears to have been drafted during rather than after the operation, lists those involved in or aware of *Katzen* as including President PW Botha, SADF chief General Jannie Geldenhuys, army chief general Kat Liebenberg, the commissioner of police (then General Johan Coetze), the Secretariat of the State Security Council and the director general of NIS.

146 After the failed attack, *Katzen* seems to have collapsed.

147 On 1 April 1987 the Ciskei banned both the Ciskei People's Rights Protection Party and Iliso Lomzi<sup>19</sup>. On 4 April, Transkei detained sixteen white military officers, mainly the ex-Selous Scouts. Soon after their departure, Holomisa took charge of the TDF, and Transkei support for *Katzen* was severely curtailed.

148 Desble made a few token appearances in the East London courts before being officially deported back to France. In an interview in 1995, Attorney-General

<sup>19</sup> Govt Gazette no.17 of 1/4/87, referred to in charge sheet of State vs Mlungisi Matthew Genda, cc34/89, Ciskei Supreme Court.

Jurgens said that his flight made an unscheduled stop before reaching France so that he could disembark and thus avoid prosecution as a mercenary in France.

- 149 A month or two later, former General Johan Coetze, now retired as SAP commissioner, was appointed to run a tri-partite committee out of East London to keep the peace between the warring homelands.
- 150 The TDF convened a board of enquiry into the abortive attack on Ciskei in August 1987. Its work was concluded and handed to the Transkei Minister of Defence. The SANDF was unable to trace this report.
- 151 In 1989, the Harms Commission of Inquiry into the Jalc group of companies heard that Putter, who was the chief of MI at the time and party to the *Katzen* plan, had been warned about the impending attack by one of his staff. MI officer Brigadier Marthinus Deyzel, seconded to Jalc in terms of a proposal for MI to use Jalc for intelligence-gathering purposes in the homelands and frontline states, told Harms that Lennox Sebe had told him he was aware of an impending attack on him by elements of the SADF. Deyzel, who seems to have been unaware of the *Katzen* plan, told his superiors. He subsequently complained to the Harms inquiry that his warning had been ignored. Putter told Harms he had taken Deyzel's warning extremely seriously and that he had written a memo for circulation among his superiors. The memo, dated 9 February 1987, stated:

*The Ciskei Government alleges that they have information that several RSA elements are involved in the destabilisation of the Ciskei. If this is correct, it would be advisable to put a stop to it... An investigation of the facts must be urgently undertaken and certain punishment procedures will have to be considered<sup>20</sup>.*

- 152 At the same time that *Katzen* was running in the Eastern Cape, the SADF's *Operation Marion* was running in KwaZulu. The attack on Ciskei was carried out on 19 February; the KwaMakhutha attack carried out in terms of *Marion*, which killed thirteen people, was carried out just weeks earlier in January.
- 153 There are several links between *Marion* and *Katzen*. Both operations were co-ordinated at Defence Headquarters in Pretoria by Colonel John More, at the time part of the DST. More was mentioned in the *Katzen* documents as supplying weapons for that operation. Liebenberg and Geldenhuys, two of the accused in

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<sup>20</sup> *Daily Dispatch*, 12 May 1989.

the KwaMakhutha trial, were also named in *Katzen* documentation. Lieutenant Colonel Jan Anton Nieuwoudt, who was involved in the 1986 Caprivi strip training of the men who carried out the KwaMakhutha attack, was subsequently (in the run-up to the 1994 elections) involved in an Eastern Cape operation which seems to have been a successor to *Katzen*. Liebenberg was involved in 'officially' shutting that operation down after it was blown and Nieuwoudt moved and apparently continued the operation in a different form elsewhere. General Tienie Groenewald was another of the KwaMakhutha accused; during the 1990s he was involved in an organisation that was implicated in running guns to prop up Gqozo's government in its battle against the ANC.

154 As More was part of DST, this indicates that both *Marion* and *Katzen* were thus run by DST, a section also responsible for running covert support to pro-Pretoria rebels in Angola (UNITA) and Mozambique (RENAMO). This indicates that the homelands were also part of MI's strategy of supporting (and sometimes setting up) rebel groups that were involved in violent attempts to overthrow governments which were either antagonistic to or could not be controlled by Pretoria, or were involved in violent clashes with UDF-aligned (and later ANC-aligned) groupings. In the homelands, this thus involved covert support for Inkatha in the KwaZulu-Natal region and, in the Eastern Cape, the setting up and funding of first the Ciskei People's Rights Protection Party and Iliso Lomzi and later the setting up and arming of the ADM. This policy does not appear to have ended with the failure of *Marion* and *Katzen* in 1987 as several of the key officers involved in those two operations were again implicated in similar activities based in the Ciskei during Gqozo's rule and the run-up to the 1994 elections.

155 Although *Katzen* seems to have collapsed in early 1987, its legacy continued. Two years later, Lennox Sebe's Ciskei government still regarded Iliso Lomzi as a threat, as can be seen in a "Top Secret" CDF contingency plan for dealing with an attack expected by "elements of Iliso Lomzi supported by the TDF and ex-Rhodesians" around 24-25 July 1989<sup>21</sup>.

### ***Security force policy: killing the guerrillas***

156 Former SADF Special Forces commander General Joep Joubert told the Commission that, in the mid-1980s, he drew up a plan for the elimination and destruction of ANC activists, their allies and supporting structures. The then SADF chief General Jannie Geldenhuys had instructed him to draw up a plan to enable Special Forces

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<sup>21</sup> 'Overall contingency plan for event of an attack by Iliso Lomzi against targets within the Ciskei', reference CDF/310/1, drafted by the CDF commander and dated 24 July 1989.

to assist the SAP in countering the revolutionary onslaught. The proposal called for the use of both clandestine and counter-revolutionary methods against the liberation movements. "I did discuss the plan with General Geldenhuys. I was under the impression that it was approved. Operations were then launched in line with the plan," Joubert told the Commission's armed forces hearing. The Eastern Cape, along with Northern Transvaal and the Witwatersrand were identified as the problem areas. Joubert's plan called for co-operation between Special Forces, the regional SADF commands and the regional heads of the security police. Joubert could not say when these operations ended; he said no order had been given to cease operations.

- 157 Apart from SADF raids on the front-line states during the 1980s, this plan appears to have involved the setting up of the 1986-87 Operations *Katzen* and *Marion* (see above): documentation in the *Katzen* file indicates that both Joubert and Geldenhuys were involved in *Katzen*, while Geldenhuys was one of the accused in the KwaMakhutha trial arising from *Marion* (see above). The Border region head of security police, General Griebenaauw, was also involved in the *Katzen* plan.
- 158 Joubert's plan also clearly involved assistance with the targeting of individual guerrillas who were then tracked down by police acting in conjunction with *askaris*, and assassinated.
- 159 Police statistics for the time indicate that insurgency increased dramatically in 1985, from fifty-one incidents reported in 1981, thirty-nine in 1982, fifty-five in 1983 and forty-four in 1984 to a massive 136 incidents for 1985.
- 160 It is interesting to note that, according to information handed to the Commission by the ANC, 60 per cent of the 246 MK members who died in combat were killed during the four years from 1986 to 1989, the period when the Joubert plan was probably in operation. According to the ANC list, at least 17 per cent of the deaths during those four years were either in the Eastern Cape or were of guerrillas who had been operating in the Eastern Cape<sup>22</sup>.
- 161 In the Eastern Cape the Joubert plan would have focused on guerrilla infiltration from Lesotho via Transkei and would thus have involved:
  - a The Eastern Province (EP) Command in Port Elizabeth, which was the regional command for the Eastern Cape;

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<sup>22</sup> ANC list compiled by Phyllis Naidoo, *MK comrades who died in combat etc in South Africa; list prepared by MK*, 2 September 1996. While this list contains several inaccuracies, it has been used as a rough guide to the statistics.

- b Brigadier Joffel van der Westhuizen (now retired as a lieutenant general) who was the head of EP Command from January 1983 until January 1987. He left and subsequently took over as officer commanding of Witwatersrand Command, another of the three key problem areas identified in terms of the military's plan;
- c Brigadier Wessel Kritzinger, who took over from Van der Westhuizen as officer commanding of EP Command until March 1990;
- d Colonel Reg Deyzel, the officer commanding of the military's Group 8 base in East London between 1984 and January 1988. This base was nearer both Ciskei and Transkei than the EP Command and would have had to deal with the homelands. In October 1985 Deyzel set up the East London Joint Management Committee (JMC);
- e Colonel Phillip Hammond, who took over from Deyzel as officer commanding of Group 8;
- f The Border region's then head of security police, Brigadier Griebenauw.

- 162 It is also likely that General Johan Coetze, the recently retired commissioner of police, was involved. Coetze was brought into the region and based in East London from about March 1987 until April 1989; his official brief was to run a tri-partite commission aimed at keeping the peace between Ciskei and Transkei, but this commission never operated and it seems his real reason for being there was to help run the clandestine security operations.
- 163 It is during this period that the security police set up an additional base in the Eastern Cape in support of Vlakplaas – based on a farm outside East London and apparently set up sometime during 1987. It is highly likely that one of Coetze's key tasks was to oversee the setting up of this base.
- 164 During the mid-1980s in Transkei, there was a marked increase in the number of incidents involving both sabotage by guerrillas and armed clashes between guerrillas and police. By 1988, a spate of security trials was underway or had recently been concluded. Most of these related to ANC activity and many were linked to each other, indicating the operation of a widespread guerrilla network across Transkei. The security force actions against this network indicate that Joubert's plan was indeed implemented in this region.

165 1987 and 1988 were particularly bad years for guerrillas operating in Transkei, featuring several hit squad killings.

### **The fuel depot bombing suspects**

*On 25 June 1985, the Umtata fuel depot was blown up together with the city's water pipelines and electricity sub-station. In what must surely have been one of the most spectacularly successful MK operations, the fuel depot burned all day, leaving panicked Umtata residents queuing for petrol, the city without electricity for several days, and the possibility of running out of water before the pipelines and electrical pumps could be restored.*

*On 24 September, student activist Bathandwa Ndondo [EC0237/96WTK], a University of Transkei student representative council member who had been expelled the year before, was picked up at his home in Cala near the South African border by a unit involving SAP member Mbuso Enoch Shabalala, Transkei policeman Sergeant Gciniso Lamont Dandala and askaris Silulami Gladstone Mose and Xolelwa Virginia Shosha. He was shot dead. Within weeks, the then Transkei president Chief Kaiser Matanzima had announced publicly that Ndondo had been killed because he had been involved in the fuel depot bombings.*

*Guerrillas Masizizi Attwell "Pieces" Mafekeza [EC0224/96UTA], Zola Dubeni [EC2653/97UTA], Welile Salman, Sisa Ngombeni and Mzwandile Vena were sought by police in connection with the fuel depot bombing<sup>23</sup>.*

*On 21-2 January 1987, Mafekeza was one of two guerrillas who assisted guerrilla Mbulelo Ngono, aka "Khaya Kasibe" or "KK" [EC0330/96PLZ], to escape after a thirty-six-hour shoot-out between Ngono and the combined forces of the TPF, TDF and SAP. Mafekeza and Ngono, together with Mr Thandwefika Radebe, were attacked by unknown gunmen in Lesotho weeks later. Radebe was killed, Ngono fled and subsequently disappeared, while Mafekeza was killed by unknown gunmen on 15 March 1987 while recovering under police guard in the Maseru hospital from the first attack.*

*During 1988, Mafekeza was mentioned in at least five security trials in Transkei in cases in which others were charged with assisting him. Also in March 1987, Dubeni was shot dead by police in Cape Town,*

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<sup>23</sup> They were all named as involved in this incident in the statement that Mzwandile Vena allegedly made to a Wynberg magistrate after his arrest in Cape Town in 1988.

*allegedly after trying to attack them after pointing out his arms cache. Ngono disappeared later in 1988 when he was abducted by South African security police from Lesotho to work as an askari; he has never returned home and his fate is unknown (the Commission received amnesty applications in connection with this abduction).*

*In October 1990, Salman died in Mafikeng in a shoot-out with security force members.*

*Vena, one of the only guerrillas linked by police to the fuel depot bombing to survive, was arrested in Cape Town in 1988; he subsequently unsuccessfully fought against his extradition to Transkei where he was later released after the 1990 unbannings.*

*Those who had offered assistance to guerrillas such as Maqeqeza, Dubeni and Vena were subsequently arrested and tortured. They included Mr Zakade Alfred Buka [EC0310/96WTK] and Mr Dugard Maqeqeza [EC0219/96UTA].*

*About twenty eventually ended up in court in various cases. The main case was thrown out of court after months of postponements; police scrambled to re-capture some of their detainees as they leapt over the dock and ran for the courtroom doors as soon as the magistrate made the ruling.*

*Few of the guerrillas made it as far as a courtroom - Vena seems to be a notable exception here. Generally those who got to court were those who were charged with assisting guerrillas.*

166 Key Eastern Cape people were also targeted by other regional police forces during this period. For example, on 25 April 1987 Mr Phindile Mfeti (40) disappeared in Durban. The Commission subsequently found that Mfeti, a unionist who had been banished to Transkei, had been abducted, murdered and secretly buried by the Natal SAP.

#### **The guerrilla who may have refused to be an askari**

*In August 1987, police tried to kill guerrilla Stembele Zokwe outside Umtata; he survived and managed to get to hospital. A second attack followed, but apparently the presence of witnesses frightened off the attackers. On 12 January 1988, Zokwe's luck ran out and he was shot dead by police hours*

*after being arrested in Butterworth. Rumours at the time were that he was an askari who had outlived his usefulness or changed his mind about assisting the police: ANC sources at the time questioned how Zokwe had managed to avoid being charged and was instead freed after he had been arrested in Bophuthatswana on his return to the country with another guerrilla, Mr Gilbert Binda, who was jailed for seven years. Two Transkei police officers, Sergeant Mtobeli Tyani and Sergeant Pumelele Gumengu, were charged with his murder but both escaped from different jails on the same day and disappeared.*

### **The failed abduction**

*In December 1987 advocate Joseph Mzwakhe Miso was snatched from the streets of Umtata, having been mistaken for lawyer Dumisa Ntsebeza, and driven out of town towards the Kei Bridge border with South Africa by white men who claimed to be South African policemen. They beat him badly and threatened to kill him, releasing him only after he was able to prove his identity. Only days before this attack Ntsebeza had been in Queenstown for a case and had been threatened by Major Venter of the Queenstown security police in the presence of Border region security chief Brigadier Griebenuw. Ntsebeza's brother, Ndondo, had been killed two years earlier by a hit squad and Ntsebeza's attempts to get a prosecution underway had repeatedly been thwarted by the authorities.*

167 The Vlakplaas *askaris* were clearly operating in the Eastern Cape and in the then independent Transkei during the early 1980s. The Terrorism Research Centre incident lists record that on 7 August 1981 there was shoot-out between the police and the ANC cadres in Butterworth following a bomb blast in East London the day before; two Transkei policemen died. Later the same day two SAP members were seriously injured in a clash with the same guerrillas at a roadblock near Elliot on the main road to Lesotho; "Two ANC gunmen killed, one captured," noted the Terrorism Research Centre. Five days later the organisation recorded "Two ANC gunmen fatally wounded, one policeman seriously wounded, in shootout with police on farm near Aliwal North; the two ANC men were the last two of the group involved in the bomb incident at East London on 6 August, and the Butterworth and Elliot shootings on 7 August"<sup>24</sup>. There is some confusion about the number of guerrillas involved in these incidents and their fate: the Commission dug up the remains of four guerrillas secretly buried by police on an Aliwal North farm after this incident, thus accounting for the two

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<sup>24</sup> Terrorism Research Centre, 'Special Report: South African political violence and sabotage', 1 July - 31 December 1981, Cape Town 1982, p30.

killed on 7 August and the two killed on 13 August. They were Mr Anthony Sureboy Dali, Mr Thabo Makhubo, Mr Joseph Lesetja Sexwale [JB02462/01GTSOW] and one 'Senzangakhona'. However, it is not clear what happened to the guerrilla reported as having been arrested on 7 August: was he subsequently one of the two shot dead five days later? He may have been MK member Gwaza Twalo, whose family told the Commission he disappeared from the Pretoria prison following a clash with police in the Aliwal North / Herschel area sometime after 1980; another witness told the Commission that the SAP had told the International Committee of the Red Cross that Twalo had been detained in Aliwal North and released in May 1980 without charges (surprising considering that he had fled the country together with the Azanian People's Liberation Army's (APLA) Sabelo Phama and had undergone ANC training in Angola). Depending on the date of disappearance, Twalo may have been the guerrilla arrested on 7 August; alternatively he may have been arrested in an earlier incident and killed in a similar way to the latter four.

- 168 By late 1981, the Vlakplaas unit had been sent down to the Eastern Cape for a stint of several weeks, as reported by Dirk Coetzee. He reports that the C1 unit moved down to the Eastern Cape following a clash between police and guerrillas at Elliot and Barkly Pass in August 1981 (presumably the clash which resulted in the guerrillas being buried on the Aliwal North farm) and worked there for seven to eight weeks<sup>25</sup>.
- 169 The early killings related to the fuel depot blasts described above may have involved the *askaris* who were permanently based at Vlakplaas; the Ndondo killing in 1985 seems to have been orchestrated from there. By the time Ngoni was abducted the Ladybrand police were involved, according to the amnesty applications to the Commission. By the time of the Sangoni, Mayaphi and Mgibe killings in February 1988, the *askari* unit was operating out of East London. 1987 and 1988 seem to have been the key years for the killing of guerrillas, primarily by locally based police.
- 170 There were various incidents of guerrillas dying in clashes during 1985-86; it is not clear how many of these were deliberately orchestrated by the security forces and how many were isolated incidents. They include: six PAC members killed in a clash with Lesotho security forces at Qacha's Nek near the Lesotho/Transkei border (one of the six was Mr Thami Zani from King William's Town, a friend of Steve Biko); Mr Zolani Mvula, who died during an explosion in a car while travelling between Engcobo and Umtata together with brothers Mlungisi

<sup>25</sup> Affidavit by Dirk Coetzee, Lusaka, 11 November 1990.

and Bongani Boo; the death of an unknown guerrilla in Sterkspruit on 13 April 1986 following two clashes with police; in May 1986 an unnamed guerrilla was reported by the press to have been shot dead at a roadblock in Transkei; in July 1986 there was a clash between police and guerrillas at Mount Fletcher, Transkei and an explosives cache was found; also in July 1986 former SAAWU member turned ANC guerrilla Mathemba Vuso was shot dead by Ciskei police in Mdantsane. In December 1986 alleged guerrilla Ngwenduna Vanda was shot dead by Transkei police Constables Ishmael Commando Dzai and Nelson Nceba Solombela while crossing from Lesotho in Transkei near Telle Bridge border post; an inquest later found they did not have the right to shoot him, but no prosecution ensued. In July 1987, another former SAAWU unionist, Mr Eric Mntonga, died in detention at the hands of the Ciskei police.

- 171 In March or April 1987 General Johan Coetze moved into the region. The official reason for bringing the general out of retirement was to co-ordinate a tri-partite commission involving South Africa, Transkei and Ciskei, to keep peace between the two warring homelands. Ironically, the immediate need for the commission had been sparked off by the failed TDF attack on the Ciskei president Lennox Sebe's palace in January 1987; this was later revealed to have been planned by the SADF as part of *Operation Katzen*.
- 172 At the same time, national politicians publicly warned of the possibility of illegal security force actions against guerrillas. On 28 March 1987, then Minister of Defence Magnus Malan warned that the South African security forces would "sniff out" any ANC guerrillas in neighbouring states and wipe them out. Ten days later on 8 April, then Minister of Foreign Affairs Pik Botha claimed ANC "terrorists" were planning to disrupt the upcoming elections and warned neighbouring states that South Africa would take "whatever action" necessary to stop them. It was during March and April that Mafekeza was killed in Lesotho, and Dubeni and Mfeti were killed in South Africa.
- 173 Not much is known about Coetze's tri-partite commission; its role was still unclear by the time it closed down two years later. It held very few meetings, Coetze was unwilling to be interviewed by journalists and no public report was ever issued by it.
- 174 About four months after it was set up, the Commission announced its first meeting. This meeting established a security agreement signed by SA, Ciskei and Transkei in Cape Town on April 10 by PW Botha, Lennox Sebe and George Matanzima.

After the meeting, Coetzee said the group was likely to meet again soon and regularly. A statement issued by the director of co-operation between the TBVC states and South Africa at the Bureau for Information, Mr CM van Niekerk, said that the functions of the commission would be "to promote good neighbourliness, peace, security, justice and economic progress in the Eastern Cape region by investigating, monitoring and making recommendations to the two governments about all matters which may adversely affect relations between the three states". In October, Coetzee told the *Eastern Province Herald* that he could not discuss the commission's work unless the other two members, Ciskei director general of manpower MC Kashe and Transkei's chief of civil defence General JS Mantutle, were present.

175 During the period of the commission's existence, Coetzee was consistently unavailable for interviews, and at one point both bantustan governments said that they did not really know what the commission was doing. There was frequent tension between Transkei and Ciskei during this time, but the three-person commission rarely met. In January 1989, during yet another spat between the two homelands, Ciskei spokesman Headman Somtunzi said he did not think the commission existed anymore, while South African Foreign Affairs spokesman Roland Darrell said that he thought it still existed but he "was not aware of anything that it's done recently". Darrell later said it was "overshadowed" by other initiatives, but confirmed that Coetzee was still involved. Other South African officials were reluctant to comment or gave confusing replies. By April 1989, the mysterious commission had closed down, although this was only reported in January the following year; a Department of Foreign Affairs spokesman said at the time that the closure had been reported to a local newspaper, but the newspaper could find no record of this. When asked to comment on the possibility that the commission had been an excuse for Coetzee to be in the region to run security operations, Mr Mark Phillips of the Wits University Centre for Policy Studies said that Coetzee was a proponent of the view that targeting and removing key activists was a better way of dealing with opposition than the state of emergency.

176 A complication for these covert police operations was the coup in Transkei by Major General Bantu Holomisa, who took over briefly first in September 1987 and then permanently in December 1987. During 1988 the SAP and their *askaris* were still operating in Umtata, but apparently without the support of the military government, which seems to have been a little confused over how to stop them; by early 1988 there were rumours in Umtata of a clandestine SAP base operating from a house near the Umtata golf course. It seems that part of the

need for the clandestine co-operation between SAP and TPF was not just in order to keep it out of the public eye, but more importantly to keep it out of Holomisa's eye.

177 Illegal handovers went hand in hand with the crackdown on guerrillas; during 1988-89, this appears to have been a source of some conflict between the then ruling TDF and the more conservative TPF. In 1987 ANC guerrilla Livingstone Matutu was arrested in Bophuthatswana, handed over to South African security police and then illegally handed over to Transkei authorities. During 1988, he appeared on trial in Transkei, in a case that his lawyers claimed the authorities tried to keep from their knowledge. In December 1988, Transkei commissioner of police, General Leonard Kawe, said that Transkei and South African forces needed to co-operate in order to carry out their work. Kawe was speaking in response to criticism from South African judge PB Hodes, who criticised the South African police for knowingly and illegally allowing the Transkei police to cross the border to deliver a suspect. By the end of 1988, the Transkei police seemed to be increasing their power in the bantustan, with the military rulers apparently unable to curb them. By early 1990 the military government felt confident enough to take on its own police force in public: Holomisa warned his police that any activities involving their co-operation with the SAP had to be cleared with their seniors first. Holomisa said that earlier in the week members of the SAP had searched vehicles "deep inside Transkei territory" and that the SA embassy in Umtata had said this was done with the co-operation of a Transkei police officer but that this had still to be verified.

178 During this period, the police also tried to recruit *askaris* among guerrillas who had survived to be jailed. Mr Stembele Zokwe (see below) was probably one of these; he was later shot dead in 1988. During 1989, East London security policeman Captain Charles van Wyk told a Transkei court he had tried to recruit accused Phumzile Mayaphi (later sentenced to death for the Wild Coast Sun bombing) as a police spy.

179 One strategy used by the SAP to protect their members from prosecution relating to illegal killings was that of changing their names. When Transkei's Attorney-General tried to charge the police in connection with the Ndondo killing of September 1987, he was told by the SAP that SAP member Mbuso Enoch Shabalala was dead; it later emerged that he was very much alive and had officially changed his name. Mr Bongani Wana, implicated first in the Sangoni *et al* killings of February 1988 and later along with SADF MI in the abortive Duli coup attempt of November 1990, is now known as Charles Wanase; his new identity document

was issued in July 1991 and he was serving as a member of the SANDF after the elections. Mr Pumelele Gumengu, a sergeant in the Transkei security police, was arrested on charges of killing MK guerrilla Stembele Zokwe in Butterworth shortly after his arrest on 12 January 1988. Gumengu, who escaped from custody on the same day as his co-accused, Sergeant Aaron Tyani, although they were held in different prisons, was later arrested by the Transkei government in connection with the abortive November 1990 coup attempt led by Colonel Craig Duli and supported by SADF MI. Gumengu was arrested carrying a passport in the name of Zama Dube: his lawyer told the Umtata Supreme Court that this was in fact Gumengu's real name. Sergeant Tyani, who escaped custody while facing charges in connection with the January 1988 Zokwe murder, is also understood to have changed his name. In a similar strategy, Vulindlela Mbotoli gained South African citizenship (as opposed to Transkei citizenship) in mid-1991 in an attempt to avoid extradition to Transkei on charges relating to the Duli coup attempt. He was ultimately abducted by the TDF MI from Johannesburg, put on trial and jailed. Similarly in KwaZulu, former KZP special constable Vela Mchunu was issued with a KZP appointment certificate in the name of Alfred Masango in March 1991 to help him evade prosecution (see KwaZulu section below).

- 180 There were some revenge attacks on the police, clearly carried out by MK members. In 1990 Madliwa, the co-ordinator of the *askari* unit in East London and the man in charge of the February 1988 attack on Sangoni *et al.*, was gunned down outside Mdantsane's Cecilia Makiwane Hospital. In February 1994, Ms Xolelwa Vusani (31, aka Noxolo or Dudu or Fetsha), was shot dead in Mdantsane; her baby she was holding at the time was injured in the shooting. Vusani had been involved in the September 1985 killing of Ndondo in Cala.
- 181 Clashes between police and guerrillas, which guerrillas frequently did not survive, continued during 1988, especially in Transkei. Transkei police, sometimes working together with SAP, were involved in these incidents.
- 182 Two guerrillas who were eventually charged in a court were Mr Ndibulele Ndzamela and Mr Phumzile Mayaphi, who were sentenced to death for bombing the Wild Coast Sun on 18 April 1986 (both were eventually freed after the 1990 unbannings and later implicated in the hit squad killing of an ANC dissident in Transkei). While they were on trial during February 1988, Mayaphi's brother Zonwabele stopped in at the Umtata Supreme Court to attend the trial. After he left the court buildings with his friends Zolile Sangoni, Thozamile Nkume and MK member Thembisile "Gift" Mgibe, they were followed by a police hit squad, pulled over

and gunned down; only Nkume, who seemed to have accidentally hitched a lift with the group, survived. The killers were SAP member Sergeant Mpumelelo Madliwa from East London, TPF member Constable Bongani Wana from Umtata and three *askaris*; they later told an inquest they had been armed with irregular weapons, used false vehicle registration numbers and had fired because they thought the guerrilla was going to attack them. They justified the killing to the inquest by explaining that Mgibe was a guerrilla; Mayaphi and Sangoni appear to have been targeted because of their connections to the terrorism trial and a prominent firm of human rights lawyers respectively.

- 183 In January 1988 clashes between police and guerrillas continued in Transkei with few guerrillas surviving. On 25 January, there was a shoot-out near Ugie; the following day two guerrillas (Mr Siphiwo Hamlet Mazwai and one "Bobo") died in a clash with police while four others were detained. Mazwai's family later claimed that police had not even informed them of Siphiwo's death. Both the SAP and SADF monitored his Grahamstown funeral and the area was declared an operational zone for the duration.
- 184 On 8 March 1988 MK member Qondo Hoho and his uncle Acacia Hoho were killed and six policemen injured in a shootout after the SAP surrounded a house in Mlungisi near Queenstown. The house was afterwards bulldozed by police, a technique often used by police when dealing with guerrillas.
- 185 On 2 July 88 a clash between police and guerrillas in Mzamba, Transkei, resulted in one guerrilla being captured and another two escaping. About a week later, in an incident probably linked to this, another clash followed; guerrilla Leo Mkuseli Xatula was killed. Information to the Commission by a witness who saw Xatula's body was that Xatula was detained, held for some days and then executed.
- 186 On 28 September 1988 MK member Lungisa Christian Qokweni died after a shoot-out with Ciskei police at a house in NU5 in Mdantsane. Ciskei denied that the SAP had also been involved in the shoot-out.
- 187 In October 1988, Transkei and South African police working together arrested guerrilla Aga Khan Tiya, in Umtata. An arms cache was reportedly found at the same time. Two weeks after the arrest Tiya appeared in the intensive care ward of the Umtata hospital, his throat having been cut while in custody. He was released and subsequently died under unexplained circumstances, presumably having been assassinated.

188 On 25 December 1988 in Mdantsane, Ciskei, an unknown gunman attacked civil rights lawyer Hintsza Siwisa, unionists Jeff Wabena and Billy Shiyan and their friends Noluthando Ntongana, Norie Joli and Virginia Panziso, leaving Joli and Panziso dead. Later rumours were that this was part of an internal ANC clash between opposing youth movements and that embezzlement of union funds may have been involved; however there is a strong possibility that this may also have been the work of the covert police unit. Wabena was eventually gunned down in a later incident.

189 Sometime during 1988 MK member Don Ntshebe disappeared from Mdantsane. A year later MK member Bongani Jonas told the Cape Town trial of Tony Yengeni *et al* that when he was in detention the police had told him about an *askari* unit that had killed Ntshebe.

### ***Things fall apart: the homeland armies rebel***

190 By the end of the 1980s, the homeland armies were starting to rebel. While the coup attempt by Charles Sebe was probably at least supported by the SADF and the 1987 attack on Lennox Sebe was part of the SADF's *Operation Katzen*, there were a few rumblings which appear to have been independent actions.

191 In January 1987, Bantu Holomisa was in detention in a Transkei jail, apparently partly for opposing Transkei involvement in *Operation Katzen* and partly for refusing to send in the TDF against an MK guerrilla involved in a shootout at Willowvale. A few months later he was out of detention, the former Selous Scouts were on the road out of Transkei and Holomisa was head of the TDF. At this point, the SADF appears to have lost control over the TDF. In September, Holomisa took over the Transkei government; shortly afterwards he handed over to the civilian government of Stella Sigcau. On 31 December 1987 Holomisa deposed Sigcau's government, citing corruption, and took over to run Transkei until the 1994 elections.

192 In February 1988, a few months after Holomisa's second successful coup, on the other side of the country the Bophuthatswana military similarly rebelled and tried to take over that homeland's government. However, the SADF moved in and rapidly put an end to that attempt.

193 Both the Holomisa coups and the failed Bophuthatswana coup attempt appear to have been independent of the SADF. Holomisa probably survived his coups without immediate South African interference because he was a better strategist

than the Bophuthatswana would-be rulers: in neither of his coups did Holomisa either arrest the prime minister or president, or force them to resign at gunpoint (although ministers were forced to resign); whereas in Bophuthatswana the military went as far as to arrest the then ruler, Mr Lucas Mangope. During his first coup, Holomisa waited until Prime Minister George Matanzima was “out of the country” in Port Elizabeth; President Tutor Ndamase was allowed to continue undisturbed and later appeared on publicity posters alongside military council members. A legal challenge to Holomisa’s government brought later by former president Kaiser Matanzima was subsequently overturned when the Transkei Supreme Court ruled that Holomisa’s government was the *de facto* Transkei government.

194 The Holomisa coups had a crucial effect on the security forces’ policy on the Eastern Cape: when the South African security forces finally realised that Holomisa would tolerate opposition and, after the 1990 unbannings, allow the liberation movements to organise freely, they changed tactics from prioritising attacking those regarded as members of liberation movements to attacking the Transkei government instead. Thus by the 1990s a spate of coup attempts were launched by the South African security forces to try to unseat Holomisa.

## ■ KWAZULU

195 This section deals with the former KwaZulu self-governing homeland and with the institutions associated with the homeland responsible for perpetrating gross human rights violations in the homeland. These include the KwaZulu government, the KZP and Inkatha (later renamed the IFP). Evidence before the Commission of the many cases where members and supporters of Inkatha and the IFP were victims of aggression by supporters of the United Democratic Front (UDF), the African National Congress (ANC) and its self-defence units (SDUs) is documented in the *Liberation Movements* chapter of this volume.

196 The KwaZulu Legislative Assembly (KLA) was established in 1972, replacing the Zululand Territorial Authority, which had been established two years earlier. The territory designated as the KwaZulu homeland comprised over twenty fragmented pieces of land scattered throughout the province of Natal. KwaZulu was what was known as a self-governing homeland. It was never to opt for independence as did several other self-governing states. Chief Mangosuthu Buthelezi headed both these administrations. The KLA was composed wholly of Inkatha members, many of whom were traditional chiefs.

197 In 1975, Chief Buthelezi re-launched the Zulu cultural organisation, *Inkatha-ka-Zulu*, as *Inkatha Yenkuleleko Yesizwe*, known in English as the Inkatha Cultural Liberation Movement. Chief Buthelezi has been president of Inkatha since its revival in 1975, and was Chief Minister of the KwaZulu government for its entire existence. He has exerted substantial personal influence on both organisations.

198 Inkatha dominated the KwaZulu government (both its executive and its bureaucracy) to the extent that the government and Inkatha became interchangeable concepts. The organisation effectively ruled the KwaZulu government as a one-party state and used KwaZulu government resources and finances to fund Inkatha party-political activities and in the execution of gross human rights violations against non-Inkatha supporters. The KZP came into existence in 1981 and was disbanded in 1994 following the April 1994 elections. Chief Buthelezi was the only ever serving Minister of Police in KwaZulu. Violations committed by the KZP are dealt with later in this report.

199 Both South African government officials and Inkatha politicians regularly failed to distinguish between the KwaZulu government and Inkatha. Vice-Admiral Andries Putter, former chief of staff intelligence (SADF) and presently an IFP official told the Commission:

*Mr Commissioner, at that stage, as far as I can remember, I never myself drew a distinction between Inkatha and the KwaZulu Government. I never spoke of the Chief Minister as president of Inkatha... It was the view that existed at that stage. In practice, however, I did not realise one could not distinguish between Inkatha and the KwaZulu Government. It was basically the same organisation.*

200 Former Inkatha National Council member, Mr Walter Felgate, told the Commission:

*The interests of Inkatha and the KwaZulu Government were indistinguishable. There was never a conflict of interest, I can bring to mind no conflict between Inkatha and the KLA on any matter of principle, any matter of strategy. They were just one amalgam with operating bases and nexuses of people.*

201 Former KZP hit squad operative, Mr Romeo Mbambo, told the Commission:

*... there was no difference between the KwaZulu Police, the Inkatha Freedom Party and the KwaZulu Government. In my opinion, they were one entity... I*

*received instructions from Captain Langeni [KwaZulu Police], Mr M Z Khumalo [KwaZulu Government] and Luthuli [IFP]...*

202 Inkatha's largest constituency has always been the Zulu-speaking people originating from the rural areas of KwaZulu, although earlier in its existence it had significant urban support as well. Inkatha's presence outside of the KwaZulu tribal authorities was usually to be found in hostels, mine compounds and informal settlements in and around cities. Beyond Natal, clusters of Inkatha supporters (again primarily migrant Zulu-speakers originating from KwaZulu) were found in most of the hostels on the west and east Rand, and in the Vaal triangle. However, Inkatha's consolidated support-base was the inhabitants of KwaZulu over whom the organisation was able to exercise control through its domination of traditional authorities, township councils and the KwaZulu Legislative Assembly.

203 Taking into account that there was a symbiotic relationship between Inkatha, the KZP and the KwaZulu Government, the three institutions are dealt with together for the purposes of this chapter.

### **1970s: The re-birth of Inkatha and KwaZulu**

204 Inkatha had its origins in an organisation called the Native Congress, established in 1928 by the Zulu king of the time, Solomon kaDinizulu. It was later renamed *Inkatha ka-Zulu* (emblem of the unity of the Zulu nation). By 1933, the organisation was largely inactive due to lack of finance and it remained so until its revival by Chief Buthelezi in 1969. In 1970, the Zululand Territorial Authority (ZTA) was established and Chief Mangosuthu Buthelezi was instated as the chief executive officer. In 1972, the ZTA was replaced with the KwaZulu Legislative Assembly, with Chief Buthelezi as the Chief Minister. Buthelezi promised his co-operation to the South African government but almost immediately began calling for more land, powers and recognition for the Zulu nation.

205 In the Inkatha Cultural Liberation Movement, Chief Buthelezi intended to transform Inkatha from a predominantly Zulu cultural organisation into a national liberation movement. He hoped that the revived organisation would fill the vacuum created by the banning of the ANC and the decision by the ANC leadership to leave the country and operate in exile.

206 Politics in KwaZulu in the late 1970s was dominated by the growth of Inkatha and its attempts to consolidate regional power and create political options beyond

apartheid for the region. While the South African government placed pressure on homeland leaders to opt for independence, Chief Buthelezi refused to accept independence. In the first few years after the revival of Inkatha, the ANC regarded Chief Buthelezi as an important ally inside the country. He had been a member of the ANC Youth League and when he founded Inkatha, he was known to be an opponent of apartheid. The external mission of the organisation maintained contact with Chief Buthelezi and indeed encouraged their supporters back home to join Inkatha. While organisations in other homeland structures could easily be dismissed as puppets of Pretoria, at the time of its formation and for almost a decade afterwards, this was not said of Inkatha.

## 1979: The London meeting

207 During the latter part of the 1970s, Chief Mangosuthu Buthelezi became vocal in his opposition to protest politics, economic sanctions and the armed struggle being promoted by the ANC in exile. This, together with his calls for investment and a free-market economy and his embracing of constituency politics, won him increasing support from the white business and white community at large. However, it placed him at odds with the ANC's leadership in exile. The leaders of the two parties met in London in October 1979 to discuss their differences. At the London meeting Chief Buthelezi accused the ANC leadership of being hypocritical and of having deserted black South Africans.

208 Chief Buthelezi interpreted the ANC's intentions behind the London meeting to be that they wished Inkatha to become an internal surrogate of the ANC.

209 This was unacceptable to Chief Buthelezi. In its 1996 submission to the Commission, the IFP said the following of the London 1979 meeting:

*The campaign to render South Africa ungovernable was not directed against the apartheid state. KwaZulu and the IFP in particular have been the targets of ANC destabilisation policies since the 1979 conference failed to persuade the then Inkatha Cultural Liberation Movement to become a surrogate of the ANC.*

210 Following the 1979 meeting, Chief Buthelezi faced growing hostility from an increasing number of Zulu-speaking people in Natal and the KwaZulu homeland for his rejection of the ANC's strategies and, in particular, for his decision to participate in the homeland system, to work through the tribal authorities, the KLA and the black urban councils. The two organisations' differing approaches to opposing apartheid laid the basis for the bitter and bloody political conflict

that ensued.

## The early 1980s: The beginnings of institutionalised violence within Inkatha

211 By April 1980, the national campaign of students against overcrowding in schools, lack of equipment and books, and lack of student representation had spread to schools in KwaMashu, north of Durban. Pupils participating in the KwaMashu school boycott defied Inkatha's calls to return to school, and clashes developed between the pupils and Inkatha members. Chief Buthelezi described the violent action taken by Inkatha members against the boycotting pupils as "discipline" and said that Inkatha was the best instrument to sort out the problems of discipline and the problem of lack of patriotism.

212 The boycotting of classes in KwaMashu continued through May 1980. During May, KwaZulu Minister of Justice, the Reverend Celani J Mthethwa, urged vigilante groups to join the KZP reservists. Also in June 1980, Chief Buthelezi said that he wanted to train an army to keep order, to prevent the destruction of schools and to control riots. He said:

*I think it is time for Inkatha to establish training camps where branches and regions are schooled in the employment of anger in an orderly fashion. We need to be able to control riots... I think we need to create well-disciplined and regimented impis in every Inkatha region which can be called out for the protection of that which is so sacred to Inkatha and black South Africa.*

213 The Inkatha Committee endorsed this proposal at its meeting in July. In 1981, a paramilitary training camp was established at Emandleni-Matleng, near Ulundi.

214 Chairperson of the Inkatha Youth Brigade, Mr Musa Zondi, said that the camp was "run with a paramilitary approach". Those trained at the Emandleni-Matleng Camp wore military-style uniforms and were organised into sections, brigades and companies. In his presidential address to the Inkatha Annual General Conference in July 1982, Chief Buthelezi said:

*We have the Emandleni-Matleng Camp girding the loins of youth with the resolve of their elders and with the wisdom of ages, to move into the communities and play a devastating role with apartheid's enemies...*

215 In his August 1982 address to the Inkatha Youth Brigade, Chief Buthelezi announced the formation of a paramilitary force of young Africans who would "take up the struggle for liberation".

216 Inkatha's fostering of trained paramilitary groups within Inkatha marked a movement in Inkatha towards the institutionalisation of violence. The provision of paramilitary training to Inkatha youths inevitably led to Inkatha supporters turning to violence and militaristic methods of dealing with their perceived enemies.

217 In 1983, the UDF emerged and adopted a strategy of 'ungovernability', opposing and undermining existing local government structures. The fact that, in Natal and KwaZulu, most of the local authorities were Inkatha-dominated, resulted in Inkatha being identified as the primary target. The Inkatha movement, in particular its leader, Chief Buthelezi, was insulted and ridiculed by UDF supporters. Also during 1983, a number of Durban townships were identified for incorporation into KwaZulu. A large number of residents in these townships opposed incorporation into KwaZulu. Non-Inkatha councillors withdrew from the township local councils as an act of protest and clashes subsequently occurred between those opposing incorporation (primarily UDF-aligned residents' associations) and those promoting it (Inkatha). Thus it was that the violent clashes between Inkatha and the UDF which came to the fore in 1984 centred on local government in the form of traditional authorities, urban councils or regional councils.

### ***Lamontville***

218 The Lamontville township, south of Durban, was one of the townships identified for incorporation into KwaZulu. A residents' association opposing both rent increases and incorporation and known as the Lamontville Rent Action Committee was formed. On 25 April 1983, Mr Harrison Msizi Dube, chairperson of the Lamontville Rent Action Committee, was shot dead. Five people were convicted of murdering Dube, including the IFP mayor of Lamontville, Mr Moonlight Gasa. The court found that Gasa had conspired to kill Dube, and that he had hired two men from the Transkei to carry out the murder. Inkatha did not publicly sanction or rebuke Gasa and his accomplices or condemn their actions in killing Dube.

### ***Hambanathi***

219 On 31 August 1983, the South African government announced that Hambanathi, a Port Natal Administration Board township north of Durban, was to be incorporated

into KwaZulu. In August 1984, clashes occurred between those supporting incorporation (led by Inkatha) and those opposed to incorporation (led by the Hambanathi Residents' Association, which was affiliated to the Joint Rent Action Committee (JORAC)). Inkatha supporters killed at least three UDF supporters and attacked and set alight at least thirteen Hambanathi homes, including the homes of two JORAC members. Because of the violence, more than twenty-five families had to flee the township. Consequently, the Hambanathi Residents' Association laid thirty-four charges of assault against predominantly Inkatha members. A number of Inkatha supporters were subsequently convicted on charges of arson relating to the burning of houses belonging to non-Inkatha supporters.

220 The anti-incorporation violence spread to other townships, such as the Chesterville township, where an Inkatha-aligned vigilante group, known as the Chesterville A-Team, emerged to counter the UDF in the township (see below).

### ***Ngoye***

221 On 29 October 1983, five people, including four students and an Inkatha supporter, were killed and many others injured in a clash between students and a group of approximately 500 Inkatha youth brigade members at the University of Zululand ('Ngoye'), south of Empangeni. The clash was triggered by an attempt by the Inkatha leader to hold a commemoration ceremony for the death of Zulu king, Cetshwayo, on the campus, to which the students were opposed. In the clash, the large group of Inkatha supporters attacked the students' residences, breaking down doors and pulling students out from where they were hiding. The students were dragged out, assaulted and stabbed with traditional weapons.

222 Following the Ngoye violence, the Joint Staff Association of the University of Natal called on Chief Buthelezi to resign either from his position as president of Inkatha or as Chancellor of the University of Zululand. The *City Press* newspaper said in its editorial on 6 November 1983:

*As president of Inkatha, [Chief Buthelezi] must either accept responsibility for the actions of the bloodthirsty militants that ran wild at Ngoye and weed them out immediately, or he must admit that Inkatha militants are out of his control.*

223 In a memorandum written following the campus violence, Chief Buthelezi denied that the Inkatha Youth Brigade members had initiated the attack and, instead,

claimed that they were merely defending themselves after they were pelted with stones from students. Chief Buthelezi said:

*We all deeply regret the violence which occurred on Saturday. Our youth were faced with violence and would have been maimed and perhaps even killed, if they could not fend for themselves. We hope that is now abundantly clear that they can in fact do so... Inkatha youth need no protection, as the events on Saturday clearly showed. I must warn South Africa that if this kind of provocation continues which we experienced on Saturday, Inkatha youth will demonstrate their strength and prowess.*

224 Former Inkatha National Council member, Mr Walter Felgate, told the Commission regarding Inkatha's stance on the events at Ngoye on 29 October 1983:

*The idiom of the comment was, 'Now people can see that we're not a sitting duck, and we're not a lame duck and they must be careful of us'.*

#### ***The A-Team, Chesterville***

225 An Inkatha-supporting and state-sponsored vigilante group known as the A-Team was set up with the help of the SAP Riot Unit, in 1983/4 in the Chesterville township, Durban. Statements made to the Commission allege that the A-Team was responsible for the perpetration of human rights abuses in the township between 1985 and 1989. These included at least ten killings, several cases of attempted killing and many incidents of arson and severe ill treatment.

226 The picture painted by witnesses who gave evidence at public hearings of the Commission in Durban was that this group established a reign of terror in Chesterville over a number of years. They took over Road 13, illegally occupying houses in that road and burning surrounding houses in order to make a safe area for themselves. They also allegedly brought in Inkatha youths from other townships to bolster their power-base. Their sole aim was to target members of youth and other UDF-linked organisations. This they did with the active complicity of the SAP, including the Riot Unit and the Security Branch.

227 In his application for amnesty, former member of the Durban Riot Unit, Mr Frank Bennetts, gave evidence of the extent of the Security Branch's involvement in and collusion with members of the A-Team. He described the A-Team as:

*a group of Inkatha supporters who were acting in their capacity, or so I believed, in assisting the police in the curbing of the growth and support of groups and organisations opposed to the government and the order of the day.*

228 According to Bennetts, the A-Team assisted the Riot Unit by identifying alleged perpetrators and UDF activists to be detained. They also served as informants, passing on information to the security forces. In return, the Riot Unit offered them protection by putting extra patrols into the street where they lived, and giving them escorts in and out of the township if and when they required it.

229 Bennetts told the Commission that the A-Team members were never detained under the emergency regulations, although there was good cause to detain them. He said that had the police arrested the A-Team members, the incidents of violence in Chesterville would have been reduced "by 99.99%". In his words, '[The A-Team] wrecked half the township". Nevertheless, the Riot Unit openly and blatantly sided with the A-Team, perceiving the gang as a legitimate ally in their struggle against the UDF.

#### ***The Umlazi cinema massacre in August 1985***

230 On 1 August 1985, Victoria Mxenge, an UDF executive member, was murdered at her home in Umlazi, Durban. A memorial service was held in her honour in the Umlazi Cinema building on 8 August 1985. Whilst the service was in progress, hundreds of Inkatha vigilantes armed with assegais, *knobkieries* and firearms burst into the cinema, and began randomly stabbing and shooting at the mourners. In the attack, fourteen people were killed and many others injured. Witnesses allege that the attackers included Inkatha vigilantes recruited from the adjacent shack settlements and from Lindelani, north of Durban. The soldiers and police were allegedly still present but did not act to prevent the attack. This was the worst incident yet of clashes between Inkatha and UDF. A document prepared by the Secretariat of the State Security Council in March 1989 had the following to say regarding the violence surrounding the murder of Victoria Mxenge:

*Die moord op mev Victoria Mxenge, n radikale prokereur van Umlazi, op 1 Aug 85 waarvoor die UDF die blaam op Inkatha en die SAP geplaas het, was die grootste aanleidende faktor tot ernstige gewelddadige konflik tussen die UDF en Inkatha, veral in die groter Durban-gebied. Groot skaalse onrus het tot Maart 1986 voortgeduur en selfs die noodtoestand (Junie 1986) kon nie die sporadiiese gewelddadige voorvalle inhieber nie.*

231 Inkatha failed to condemn or distance itself from the violent actions of the above-mentioned Inkatha-aligned vigilante groupings from Lindelani and Chesterville. Another example of an Inkatha-aligned vigilante grouping is the AmaSinyora from KwaMashu (see below).

232 During the early 1980s, Chief Buthelezi still had high standing in the international community and amongst South African (white) businesspersons. Part of this was due to Inkatha's official and international rhetoric of non-violence. This was indeed true of Inkatha's stance towards the South African government and the white electorate. Inkatha supporters did not bomb shopping centres or defence force installations, or kill black Security Branch members. However, Inkatha members clearly employed violence against the ANC/UDF and against other extra-parliamentary opponents of the state, as did members of the UDF. The following quotes from speeches made by Chief Buthelezi at Inkatha meetings or in the KwaZulu Legislative Assembly during the early 1980s indicate an increasingly militaristic tone emerging in his addresses to his constituency:

*I want to find out whether our members think that adopting the following attitudes is consonant with non-violence or not: If someone hits you with a bare fist, must you not take off your boxing gloves and hit back at him. Is it the right thing to run away and be branded a coward?*

*If need be we will call for an eye for an eye and for a tooth for a tooth. However much we loathe revengeful politics, if that is the only way we can survive these unwarranted attacks on us, whether through rhetoric or real force, we will rather go into that kind of political action for our survival. I believe we must prepare ourselves not only to defend property and life but to go beyond that and prepare ourselves to hit back with devastating force at those who destroy our property and kill us.*

*I have stated that our commitment to peaceful change does not take away the inalienable right which every individual has to defend himself or herself... We cannot, just because we are a peaceful movement, lie down so that people can trample on us or destroy us without lifting a finger.*

*Because we are committed to non-violence it does not mean that we are prepared to lay ourselves down as sacrificial lambs to be slaughtered by those who oppose us with violence.*

## **The latter 1980s: Collusion with the South African security forces**

233 By 1985, Inkatha supporters found themselves increasingly under attack by virtue of the positions they held within local government and homeland structures. Threats of assassination against Chief Buthelezi in 1985 prompted the Inkatha leader to turn to the South African government, in particular to the SADF, for assistance to take on the ANC/UDF. Contact with the central government had of necessity to be secret given Chief Buthelezi's public stance towards the South African government. During the latter half of the 1980s, Inkatha began to draw increasingly upon the support of the South African government, and to rely more heavily on the South African and KwaZulu government's infrastructure and resources. In the process, its aggression turned away from the apartheid state and became directed at those who were advocating alternative structures and thus threatening its power-base.

234 The South African government not only welcomed but also actively promoted this covert alliance with Inkatha, as it fell squarely into its response to what it saw as the total revolutionary onslaught against it. Covert logistical and military support to UNITA in Angola, RENAMO in Mozambique and to the Lesotho Liberation Army (LLA) was a critical part of the South African government's counter-revolutionary strategy. Although these operations were external, the State Security Council resolved in 1985 to establish such groups internally, in addition to those it was already supporting. Inkatha was seen as being able to play the same counter-mobilisation role inside the country as their external surrogates (such as UNITA) had played, and had become a "middle force" between the South African government and its political enemies. A common feature of the external and the internal operations, was that in both cases training and weapons supply were undertaken by the SADF's DST, and by Special Forces personnel.

235 Furthermore, the media images projected of white policemen assaulting and shooting at black demonstrators were clearly unacceptable internationally, and there was a feeling that repression should as far as possible not be carried out by state security forces, but by black surrogate groups. Part of the government's strategy was to characterise the political conflict in the country as "black-on-black" violence.

### ***Operation Marion***

236 One of the first instances of covert military assistance between Inkatha and the South African government was *Operation Marion*, the SADF Military Intelligence project set up in early 1986 in order to provide assistance to Inkatha and the KwaZulu government. During 1985, Chief Buthelezi was alerted by Military Intelligence to alleged assassination plans against him. This prompted him, in late 1985, to approach Military Intelligence with a request for various capabilities, including an offensive paramilitary capacity, in order to take on the ANC/UDF. His request was made directly to the then Director of Military Intelligence, General PH 'Tienie' Groenewald. According to Groenewald, Chief Buthelezi commented that :

*although he was a supporter of a peaceful solution, the ANC must realise that if it uses violence against KwaZulu and its people, the Zulu, who has already received fame as a soldier, is also in a position to take violent action against the ANC. He himself would like to take the struggle to the ANC in Lusaka although at present he does not have such a capacity.*

237 Flowing out of this was what has become known as the Caprivi training, the clandestine training in offensive action of some 200 Inkatha supporters conducted by the Special Forces arm of the SADF in the Caprivi Strip, South West Africa/Namibia in 1986. Secret military intelligence documents make it clear that the project was undertaken as much to further the strategic aims of the South African government and Defence Force, as it was in response to a request from Chief Buthelezi. Planning for this project took place in circumstances of utmost secrecy, and involved the highest echelons of the State Security Council and Military Intelligence on the one hand, and Chief Buthelezi and his personal assistant, Mr MZ Khumalo, on the other. The defence force was at pains to ensure that the entire project was covert, and that the funding of the project could not be traced back to its source.

238 Training was given to three distinct groups - the VIP protection group, the contra-mobilisation group and the offensive group. Significantly, all three received offensive training. The training lasted six months and included training in the use of Soviet bloc weapons, heavy-duty weapons such as mortars and rocket-launchers, and the use of explosives, landmines and hand grenades. The trainees were taught how to carry out attacks without leaving a trace and how to avoid arrest, detention and interrogation at the hands of the police. They were also taught how to attack houses with the aim of killing all the occupants.

239 The trainees were controlled and supervised by a political commissar, later to become their commander, Mr Daluxolo Wordsworth Luthuli. Luthuli was a former ANC guerrilla fighter who had recently joined Inkatha after being released from a lengthy term of imprisonment on Robben Island. His appointment was authorised by Chief Buthelezi.

240 Luthuli was unequivocal concerning the purpose of the Caprivi training. He told the Commission that the training was aimed at equipping Inkatha supporters to kill members of the UDF/ANC. According to Luthuli and other Caprivi trainees who spoke to the Commission, this is what they were explicitly told by their SADF instructors. They knew that they were being trained as a hit squad.

241 The Caprivi trainees were centrally involved in the Inkatha-aligned hit squad activities in KwaZulu and Natal until the 1994 elections. The trainees continued to receive support, including a monthly salary, from the SADF until 1989 when most of them were enrolled in the KZP. Here many of them continued their hit squad operations under the guise of being official law-enforcement officers. The trainees received instructions as to targets and weaponry from Luthuli, their political commissar and commander, and from the local Inkatha leadership in the area where they were deployed. The link between Luthuli and Inkatha was maintained through Mr MZ Khumalo.

242 With their deployment in various parts of KwaZulu and the former Natal, the trainees were partly responsible for the dramatic escalation of the political conflict in the region, and fundamentally changed the political landscape in the former KwaZulu homeland, the repercussions of which are currently playing themselves out in this region. Their *modus operandi*, their mobility, their access to infrastructure and sophisticated weaponry exposed large numbers of people and vast areas of the province to their activities. As a result, they were responsible for facilitating the easy and quick resort to violence as a means of settling political scores and greatly enhanced the development of a culture of impunity and political intolerance that is so well established in the province at the present time.

243 Caprivi trainees were implicated in many of Inkatha's subsequent initiatives involving violent strategies aimed at countering the ANC/UDF. The trainees formed a large proportion of the Inkatha supporters recruited to become special constables (see below). They formed the core of Inkatha/KZP hit squads set up by Inkatha office-bearers in the early 1990s (see below). Several of them were employed as instructors in the Mlaba self-protection unit (SPU) training project

in 1993/4. They were also central to a proposed plan for a KwaZulu battalion, although these plans were never realised.

### ***Deployment***

244 Evidence of the activities of the Caprivi trainees in their areas of deployment is documented in the KwaZulu-Natal regional overview, found elsewhere in the Commission's report. On their return from the Caprivi, a small group of the trainees who had received specialised training in VIP protection were deployed in the KZP's VIP unit while the rest of the group were deployed to IFP offices and/or KZP stations around KwaZulu and Natal. The trainees all received a monthly salary paid to them by Military Intelligence, through Mr M Z Khumalo of Inkatha.

245 At its special hearing on the Caprivi training held in Durban in August 1997, the Commission heard that in October 1986, approximately fifteen to twenty Caprivi trainees were instructed by Daluxolo Luthuli to report to the police station in the township of Mpumalanga, mid-way between Durban and Pietermaritzburg.

246 Although they never underwent any KZP training, never filled in any KZP application forms, and were never screened or required to undergo any tests, the trainees were issued with KZP appointment certificates with the rank of detective constable. They were also issued with official police firearms, which they were allowed to take home with them.

247 Under the guise of being official law enforcement agents, they engaged in large-scale hit squad activity in the Pietermaritzburg and Mpumalanga areas for the next two years, directing their attacks against perceived UDF/ANC members. These activities are described in the KwaZulu-Natal regional profile (Volume Three).

248 The Commission heard evidence of the involvement of Caprivi trainees in the KwaMakhutha massacre on 21 January 1987 in which thirteen people, mostly women and children, were killed and several others injured in the AK-47 attack on the home of UDF activist Bheki Ntuli. A large number of people including former Minister of Defence General Magnus Malan and MZ Khumalo of the IFP, were tried for murder in 1996 in the Durban Supreme Court. Although the accused were acquitted, the Supreme Court found that Inkatha members trained by the SADF in the Caprivi were responsible for the massacre and that the two state witnesses, being members of the SADF Military Intelligence, were directly

involved in planning and execution of the operation. The court was not able to find who had provided backing for the attack.

249 Witnesses who did not testify in the 1996 criminal trial testified before the hearing, and the Commission has made a comprehensive finding on the Caprivi trainee project (see Volume Five). In brief, the Commission found that the South African government provided Inkatha with a hit squad, and provided training, financial and logistical management for the project. Further, the Commission found that accountability for the human rights violations that flowed from the establishment of the hit squad lay with twenty-two people from the State Security Council, Military Intelligence, Inkatha and the KZP.

250 Caprivi trainees were implicated in political violence elsewhere in the province. At least one Caprivi trainee, Mr Vela Mchunu, was involved in the December 1986 attempted killing of one person and the killing of three people in Mpophomeni township, outside Howick, in December 1986 when workers at the British Tyre and Rubber (BTR) Sarmcol factory went on strike in support of demands for the recognition of their union, the Metal and Allied Workers Union (MAWU). The victims were prominent members of the union. Mchunu was one of the nine Inkatha members held responsible for the killings in the formal inquest (Howick Inquest 13/88) in 1988.

251 The Commission heard evidence of the activities of the Caprivi trainees in Clermont, a Durban township identified for incorporation into KwaZulu in the eighties, and of the role of Mr Bhekizizwe Samuel Jamile, the local KwaZulu Legislative Assembly representative and Inkatha member, in directing Caprivi trainees in their attacks against members of the community who were opposed to incorporation. Several notable members of Clermont were attacked during this period, most of whom were associated with the Clermont Advisory Board which was officially opposed to incorporation. Caprivi trainees were involved in the killing of Mr Zazi Khuzwayo on 9 May 1987, the attempted killing of Ms Pearl Shabalala on 15 October 1987, the killing of Mr Emmanuel Norman Khuzwayo on 28 February 1988 and other attacks directed against UDF supporters.

252 In 1991, Jamile appeared in court facing fifteen charges, including five counts of murder, seven counts of attempted murder, and three counts of incitement to murder. In the indictment, Jamile was accused of being involved between 1987 and 1989 in the murder of UDF-associated persons opposed to the incorporation of Clermont into KwaZulu. Two Caprivi trainees, who were implicated during the

trial, Zweli Dlamini and Vela Mchunu, were hidden by the KZP until the end of the trial. Owing to the inability of the police to trace these two suspects and other witnesses, Jamile was only convicted on two counts: one of murder and one of attempted murder. Jamile was sentenced to life imprisonment but was released in terms of the First Indemnity Act of 1992.

253 The Commission heard that Caprivi trainees were involved in spearheading offensive strikes at UDF supporters in the township of Imbali towards the end of 1987. Daluxolo Luthuli played a central role in directing a pre-emptive attack on UDF supporters who were allegedly intent on attacking the home of Inkatha councillor, Jerome Mncwabe (now deceased). In one incident, ten people were killed in fighting between the Caprivi trainees, instructed by Luthuli, and UDF supporters.

254 The Commission heard evidence that 130 Caprivi trainees were part of a group of 300 Inkatha supporters who were sent for special constable training in 1988, and later attached to Riot Unit 8 and deployed in the Pietermaritzburg and Mpumalanga areas where the UDF was said to be gaining the upper hand. Many were sent to guard Inkatha officials and traditional leaders and became involved in vigilante and hit squad activities aimed directly at UDF supporters. The Caprivi trainees appointed as special constables continued to receive their salaries of R700 per month from Inkatha, while also receiving their special constable salaries from the SAP. They also took instructions both from the IFP and from their formal employer, the SAP. The Commission heard from a former member of Riot Unit 8 who had worked closely with the special constables that as a result of the Unit's close association with the Inkatha-supporting constables, members of the Unit naturally sided with Inkatha.

255 Elements of the SAP Riot Unit 8, at all levels, and at the level of the special constables attached to the Riot Unit, deliberately acted, by omission and commission, to assist and facilitate attacks by Inkatha supporters upon non-Inkatha residents. The KwaZulu-Natal regional profile documents testimony from former members of the Unit who said that support to Inkatha also involved providing Inkatha supporters on the ground with weapons. The most well-known case of collusion between members of the riot police (including special constables) and Inkatha supporters is the killing of eleven people at Trust Feed on 3 December 1988, an attack performed by special constables and directed by Captain Brian Mitchell of the SAP, after a meeting between some local police officers and local members of the Inkatha leadership. Members of the SAP at higher levels were responsible for obstructing the investigation into the massacre. This, too, is documented in full in Volume Three.

256 During the mid-1980s, Chief Buthelezi was secretly recruiting Inkatha supporters for the 121 Battalion (the so-called "Zulu Battalion") based at Jozini on the Natal North Coast. Military documentation indicates that:

*The Chief Minister inferred that the time was not politically favourable to take over [121 Battalion] as a KwaZulu force. A suitable date will be decided at a later stage. To make the transfer workable, future recruitment will be clandestinely cleared first with the Chief Minister or delegated representatives. The SA Army has already made financial provision for addition of another company during 1986/7. It is suggested that the selection takes place in the normal manner after the Chief Minister has been informed. After selection, the list of accepted candidates will be covertly presented to the Chief Minister, and only Inkatha members will be finally accepted.*

### ***UWUSA***

257 The Inkatha-affiliated union, the United Workers' Union of South Africa (UWUSA) was launched by Inkatha in May 1986 with considerable covert funding from the SAP's Security Branch. UWUSA served to check COSATU's progress, but also generated conflict in the work place because of its aggressive pro-Inkatha and anti-sanctions stance. In June 1986, UWUSA members killed eleven COSATU-affiliated miners and injured 115 others in clashes at the Hlobane colliery, near Vryheid. Conflict continued in the months following and in May 1987, the Pietermaritzburg Supreme Court granted National Union of Mineworkers members from the colliery an interdict restraining UWUSA members from assaulting them.

### **The KwaZulu Police**

258 The KZP was created by statute in February 1981 and had jurisdiction over the largest and most populous dormitory townships in the former KwaZulu homeland. It was disbanded in 1994, with many of its members being incorporated into the newly established South African Police Services.

259 From its inception, the role of the KZP was controversial, and allegations of political bias in favour of Inkatha, and later the IFP, were levelled against it up to the date of its disbandment in 1994.

260 The official policy of the KZP, stated in 1990 by the public relations officer of the force was that its members "may not belong to any political party." Whilst force

members may not have been active members of the Inkatha, evidence submitted to the Commission shows that the KZP was a highly politicised, biased and partial police force, and was openly supportive of the IFP.

- 261 From the outset, Inkatha president Chief Mangosuthu Buthelezi was the Minister of Police for the KwaZulu Government. Furthermore, during the most critical period of political conflict in the province, from 1989 to 1992, the commissioner of the KZP was Major General J H ('Jac') Buchner, a former officer in the SAP Security Branch. Buchner was described by former police captain Dirk Coetzee as "one of South Africa's top security policemen", who had "established himself as a brilliant and ruthless opponent of the ANC - as interrogator, state witness, logistics expert and planner of raids on neighbouring states". Amongst other things, Buchner had been responsible for the recruitment and training of *askaris* (or former ANC guerrillas captured and induced to work for the South African security forces).
- 262 A full report on the role of the KZP is not possible in this chapter, but examples of the KZP's active participation in serious political violence are given by way of window cases below.

#### ***Political bias, incompetence and general misconduct***

- 263 In June 1992, the Durban branches of the Legal Resources Centre (LRC) and the Human Rights Commission (HRC) published a report entitled *Obstacle to Peace: the Role of the KwaZulu Police in the Natal Conflict*. In the report, the HRC and LRC used court records, *affidavits*, witness statements and other documents to describe numerous abuses by the KZP, which contributed to the conflict in Natal. Among the abuses documented were the following :
  - a Murder and assault of persons perceived to be political opponents of Inkatha;
  - b Abduction of ANC-aligned or non-Inkatha activists;
  - c Participation or collusion with vigilante groups in the intimidation and attack of individuals accused of not supporting Inkatha;
  - d Failure to intervene to prevent attacks by Inkatha members carried out in the presence of the KZP;

- e Maltreatment and torture of detainees;
- f Firebombing of homes;
- g Disruption of funerals, memorial services and meetings of non-Inkatha groups;
- h Contravention of court orders forbidding harassment of individuals or communities;
- i Supply of weapons to notorious gang members;
- j Failure to render medical assistance to critically injured persons;
- k Failure to respond to calls for assistance or to investigate incidents involving Inkatha supporters;
- l Action outside the boundaries of KwaZulu and failure to co-operate with the SAP;
- m Failure to keep proper records, to admit that detainees or bodies are being held, or to co-operate with lawyers seeking to represent clients in accordance with the terms of the law.

264 There was no official response from the KwaZulu government or police to these allegations, other than in the submissions made on their behalf to the Goldstone Commission's enquiry into violence in Natal, one year after the report was originally published. In only six incidents mentioned in the *Obstacle to Peace* report did the submissions offer information of material developments that had not been covered (two of the six related to payments of damages by the KZP to complainants on the grounds that the complaints had been substantiated). In most cases, the submissions denied allegations, or stated that records were lacking or cases pending.

265 A study of violent incidents between January and June 1991, carried out by the Centre of Social and Development Studies of the University of Natal and the Human Sciences Research Council, reported that the KZP played an aggravating and negative role in 55 per cent of the events at which members of the force were present. The KwaZulu government countered allegations of this type in its submission to the Goldstone Commission by stating that there were complaints against the KZP in only 5 per cent of the communities in which it was the police force. However, human rights organisations attributed this to the reluctance of

those subject to mistreatment to complain to the same police force whose members had mistreated them, and to the lack of independent lawyers to assist potential plaintiffs.

- 266 Further KZP misconduct has emerged in the form of the issuing of false police appointment certificates to Caprivi trainees by the former deputy commissioner of the KZP, Major General Sipho Mathe. When the South African Police Investigation Task Unit (ITU) presented a case for prosecution to Natal Attorney-General, Tim McNally, he admitted that Mathe did issue the certificates fraudulently, but said that the case was not serious enough to warrant a prosecution.
- 267 On at least twelve separate occasions between 1988 and 1992, the Supreme Court in Natal issued urgent orders restraining members of the KZP from assaulting or carrying out other unlawful acts against township residents. In one case, SAP Detective Sergeant Joseph Kabanyane and others interdicted the KZP from assaulting, threatening and harassing not only the applicants themselves, but also any other resident of KwaMakhutha township. Evidence submitted to the Court indicated that large numbers of KwaZulu police officers were travelling around KwaMakhutha township in vehicles and on foot, shooting indiscriminately with heavy calibre weapons at any visible township resident. No investigation followed the granting of the court order, and in his replying *affidavit*, the commissioner of the KZP merely denied that his members had been acting unlawfully.
- 268 The Commission heard evidence of the active participation of members of the KZP in what has been described as the 'Esikhawini hit squad' which was responsible for a number of hit squad killings in Esikhawini, near Richards Bay, and surrounding areas between 1991 and August 1993. The origins and activities of the Esikhawini hit squad, as well as a review of the violations perpetrated by its members are to be found in the KwaZulu-Natal regional profile in Volume Three.
- 269 One of the founding members of the hit squad was Mr Brian Gcina Mkhize [AM 4599/97], a Caprivi trainee who subsequently joined the KZP and was posted to the Esikhawini Riot Unit in 1990. Together with Daluxolo Luthuli and KZP Captain Leonard Langeni, at the time the officer commanding the KwaZulu Legislative Assembly Protection Unit, and others, Mkhize attended a meeting in Ulundi where the political violence between supporters of the ANC and Inkatha in the Esikhawini area was discussed. Mkhize told the Commission that at this meeting he was told that "the time had arrived to use the skills acquired at the Caprivi". He said that it was made clear to him that he was to take unlawful action against ANC

supporters in Esikhawini. He was further told to gather reliable people to assist him. KZP Detective Sergeant Romeo Mbuso Mbambo [AM 4598/97] was one of those conscripted to the hit squad. KZP Captain Leonard Langeni was kept informed of the operations that flowed from the initial planning meetings of the hit squad, and supplied ongoing direction and logistical support to the operatives. Between them, the KZP and IFP members of this hit squad have applied for amnesty for over 100 killings. Instruction for the killings were received from senior IFP and KZP members. The activities of the hit squad are dealt with in more detail elsewhere in the Commission's report.

- 270 A number of other KZP members gained particular notoriety for killing people perceived to be ANC/UDF sympathisers and appeared to be immune from prosecution. Two examples of such police officers are Detective Constable Siphiwe Mvuyane from Umlazi, who on his own admission killed approximately 50 people, and Constable Khethani Shange from KwaMashu, who was jailed for several murders. Their involvement in serious human rights abuses has been extensively documented in other publications.
- 271 In 1993, the Wallis sub-committee of the Goldstone Commission was mandated to enquire into the role of the KZP in the political conflict in KwaZulu-Natal. The committee found that, for the most part, investigations by the KZP were "characterised by neglect, delay, disregard of elementary procedures and a failure to bring the offenders to book" (paragraph 47). In a further indictment of the KZP, the Deputy Attorney-General of Natal told the Wallis Committee that the standard of investigation of murder cases in the greater Durban area by the KZP was poor. Charges against the KZP included vague and incomplete witness statements with no attempt to corroborate their accounts or follow up on issues raised in the statements, no proper examination of scene of crime, failure to hold identification parades, loss of evidence and the failure of investigating officers to bring accused, witnesses or exhibits to court on request.
- 272 The Goldstone Commission's second interim report, dated 29 April 1992, stated that:

*The widely held view by a large number of people in KwaZulu and neighbouring areas that the KwaZulu Police are a private army of the Inkatha Freedom Party is a matter of great concern in relation to the curbing of violence in those areas. No less disturbing is evidence that has been given concerning unlawful activities by senior members of the KwaZulu Police. (para 3.2.4)*

273 Investigations by the Commission and other bodies have shown that high-ranking officers of the KZP were involved in covering up crimes committed by Inkatha and KZP members. Cover-up practices by KZP officers ranged from neglecting basic investigative procedures to deliberately tampering with evidence and concealing suspects and key witnesses.

274 The role of the KZP in covering up the crimes of Inkatha-aligned persons was demonstrated in the Trust Feed case. In this case, certain senior KZP and Inkatha officials helped conceal the four special constables who were implicated in the murder. Almost immediately after the massacre in December 1988, KZP Captain Leonard Langeni took the four special constables into hiding at the Mkhuze Camp, which fell under his command. The KwaZulu Department of Nature Conservation owned the camp. During this time the special constables continued to receive their police salaries, paid to them by Langeni. Later they were taken to the KZP barracks in Ulundi, and then to the homes of various Inkatha-supporting chiefs. In 1990, they were assisted in joining the KZP, despite the fact that all four were still being sought by the SAP concerning the massacre at Trust Feed.

275 Members of the KZP were also involved in the concealment of former KZP Special Constable Vela Mchunu, implicated in the December 1986 murder of three members of the Metal and Allied Workers Union (MAWU) from Mphophomeni. In order to prevent Mchunu from testifying at the inquest, KZP Captain Leonard Langeni and Chief Buthelezi's personal assistant, Mr MZ Khumalo, arranged for Mchunu to be hidden for a period at the Mkhuze camp. Mchunu said that both Langeni and Khumalo knew that he had killed people and that he felt that their helping to conceal him indicated their approval of his actions. In 1990, Mchunu was implicated during the murder trial of Samuel Jamile, from Clermont, and was again taken into hiding (see above). In March 1991, after the completion of the Jamile trial, Mchunu was issued with a KZP appointment certificate under the name Alfred Masango.

276 Other police officers and Inkatha members who were suspects in crimes were hidden from the SAP at the Mkhuze camp. Daluxolo Luthuli was hidden at the Mkhuze camp during 1988 following his release on bail in connection with the possession of an AK-47 that was used in an attack on a UDF stronghold in Mpumalanga. Caprivi trainee Bhekisia Alex 'Sosha' Khumalo [AM 4027/96] was also hidden for a year at the Mkhuze camp following his release on bail on a charge of attempted murder. Mr Nyoni Israel Hlongwane [AM 4600/97], active in the Esikhawini hit squad, was taken into hiding at the Mkhuze camp when he was

being sought by police in connection with rape, murder and attempted murder charges. When the SAP approached the KZP for assistance in arresting Hlongwane, none was offered. The other people implicated in the incident were arrested and charged and one of them convicted. Another Caprivi trainee and special constable, Mr Zweli David Dlamini, was hidden at Mkhuze camp for over a year after he was involved in a shoot-out with SADF members in Imbali in December 1987. Dlamini told the Commission that Mr MZ Khumalo and Captain Langeni arranged for him to go into hiding. In 1990, at Langeni's recommendation, Dlamini was accepted as a member of the KZP, despite the fact that warrants had been issued against him for attempted murder.

- 277 The vast majority of cases of alleged KZP involvement in gross human rights violations reported to the Commission occurred post-February 1990. The victims were almost exclusively people perceived to be sympathetic towards the ANC. The exception was a handful of KZP members who were eliminated by their own colleagues after they refused to cover up Inkatha or KZP criminal activity.
- 278 A number of KZP stations gained certain notoriety for severe misconduct and partisan policing. These included Umlazi, KwaMashu, KwaMakhutha, Madadeni, Sundumbili and Esikhawini.

### **1990s: The IFP-ANC war for supremacy in KwaZulu, Natal and the PWV**

- 279 The role of the IFP in the political violence in the early nineties is dealt with under the relevant sections of the Commission's report. In brief, the IFP was found to be the foremost perpetrator of gross human rights violations in KwaZulu and Natal during this period. Approximately 9 000 gross human rights violations were perpetrated by Inkatha in KwaZulu and Natal from 1990 to May 1994. This constituted almost fifty per cent of all violations reported to the Commission's Durban office for this period and over one-third of the total number of gross human rights violations reported for the thirty-four-year period of the Commission's mandate.
- 280 The Commission has made a finding that members and supporters of the IFP were responsible, together with sections and members of the state's security forces, for committing gross violations of human rights in the event which has come to be known as the Seven Day War which took place in the greater Edendale area outside Pietermaritzburg in the seven days from Sunday, 25 March 1990. In

the event, over 100 people were killed, some 3000 houses were destroyed by fire and approximately 30 000 people fled their homes because of the violence. The vast majority of the people killed and injured were from the non-Inkatha areas, and the vast majority of the property damaged burned and looted belonged to non-Inkatha supporters.

281 The Commission heard that hostels in the provinces of KwaZulu/Natal and the Transvaal, particularly in the PWV (Pretoria/Witwatersrand/Vereeniging) area, became strongholds of the IFP in the early nineties, and that these hostels became 'no-go' areas for non-Inkatha residents of adjacent communities. In turn, IFP hostel-dwellers were increasingly alienated in these communities and were frequently attacked by youths from these communities. However, IFP-supporting hostel-dwellers were responsible for launching several large-scale attacks on adjacent townships and informal settlements in these provinces. Examples are to be found in attacks in Bruntville, Mooi River, in KwaZulu/ Natal on 8 November 1990 (killing sixteen people) and on 3 and 4 December (killing eighteen people). The overwhelming majority of these victims were non-IFP township residents. Hundreds of people died in conflict between IFP-supporting hostel-dwellers in the PWV area, and in attacks launched by hostel-dwellers on surrounding communities. Examples are found in the Sebokeng massacres of 22 July 1990 and 3 September 1990, the Alexandra night vigil massacre of March 1991, the Boipatong massacre of June 1992 and the Thokoza massacre of May 1993.

282 The Commission has made a finding that IFP supporters were conscripted into hit squads and that the activities of these hit squads became widespread in KwaZulu and Natal during the 1990s. From information received by the Commission, it would appear that the hit squad operations flowing from the Caprivi training and other political networks were predominantly supportive of the IFP, drawing in officials of the KwaZulu government and KZP as well as senior politicians and leaders of the party.

283 As such, hit squad members had access to KwaZulu government resources, such as vehicles, arms and ammunition. A measure of protection from prosecution was made possible through the collusion of the KZP as well as instruments of the state security forces. Further, Inkatha officials conspired with senior KZP officials to set up hit squads to eliminate ANC/SDU elements. The activities of the hit squads operating in the Esikhawini area near Richards Bay, the New Hanover area of the Natal Midlands, and the activities of a hit squad known as the Black Cats in Wesselton and Ermelo in the Transvaal are documented in other sections of the Commission's report.

284 The Commission heard evidence of the involvement of IFP supporters in the train violence in the PWV region between 1990 and 1993. Approximately 572 people died in more than 600 incidents of train violence.

285 Inkatha supporters were also responsible for the commission of gross human rights violations in the province of KwaZulu/Natal in the run-up to the 1994 elections, when the IFP engaged in a campaign to disrupt the electoral process. During this period, Inkatha received arms and ammunition from right-wing organisations as well as sections of the security forces and embarked upon paramilitary training projects in which IFP supporters were trained in weapons handling and paramilitary tactics. This campaign continued until 29 April, just six days before the elections, when the IFP announced that it would contest the elections. The Commission found that approximately 3 000 gross human rights violations were perpetrated by Inkatha in KwaZulu and Natal from July 1993 to May 1994. This constituted more than 55 per cent of all violations reported to the Commission's Durban office for this period.

286 At the same time, the Commission has found that Inkatha supporters, members and leaders were the target of sustained violent attack in many areas of KwaZulu and the former Natal during period of the late 1980s and early 1990s as relations between the ANC and Inkatha deteriorated steadily following the 1979 meeting of the two organisations in London.

287 Evidence before the Commission dealing with those instances when members and supporters of the IFP were victims of aggression by members of the UDF/ANC is found in the *Liberation Movements* chapter of this volume. Cases are also dealt with in the KwaZulu/Natal regional profile.

288 The IFP submitted to the Commission a document listing 420 cases where IFP party office-bearers had been killed, allegedly by members and supporters of the UDF/ANC. Cases documented occurred between August 1985 and August 1996. The Commission's Durban office conducted an intensive investigation into the 289 listed cases falling within the boundaries of the Commission's mandate. The results of the investigation are documented in the *Liberation Movements* chapter.

## ■ KWANDEBELE

### KwaNdebele independence

289 In light of the unrest that eventually followed, it is ironic to note that Pretoria's homeland planners were initially loath to create a separate homeland for the Ndebele. In terms of the 1959 Promotion of Bantu Self-Government Act, the Ndebele were not recognised as a 'national unit' worthy of their own homeland. For many years, apartheid's ethnic strategists hoped that the Ndebele would simply assimilate into Bophuthatswana or Lebowa where a large number of Ndebeles already lived. In 1979, however, the South Ndebele territorial authority was granted legislative assembly status. Two years later KwaNdebele became self-governing. Although the South African government frequently justified its abrupt change in policy by referring to requests for recognition from Ndebele traditionalists, the real reasons lay in South Africa's changing political economy and emerging strategic concerns. The large number of Ndebeles forced off white-owned farms because of mechanisation and the sudden exodus of Ndebeles fleeing ethnic harassment in Bophuthatswana had created an acute demographic problem for Pretoria's planners. KwaNdebele's establishment was designed to control groups displaced by these processes.

290 By the early 1980s, however, officials within the Department of Co-operation and Development (DCAD) realised that KwaNdebele presented the government with new strategic possibilities in terms of the larger homeland project. KwaNdebele's eager and compliant cabinet offered Pretoria's planners an opportunity to resuscitate the government's policy on independence. Following Ciskei's independence in 1981, plans to grant independence to the remaining self-governing homelands had either stalled or had been blocked by various means. The government in part blamed the South African Black Alliance, a loose grouping of black political parties chaired (and in effect led) by Inkatha's president Mangosuthu Buthelezi, for slowing down the homelands' rush to independence. Bureaucrats at the DCAD hoped that KwaNdebele's acceptance of independence might weaken the Alliance and encourage other homelands to follow suit.

291 In May 1982, the KwaNdebele Legislative Assembly passed a motion calling on the cabinet to pursue independence.

292 The political conflict over independence and incorporation that engulfed the KwaNdebele area from mid-1985 until 1988 degenerated into what was, in effect,

a civil war. Human rights violations – committed by a variety of individuals and groups on all sides of the conflict – were numerous and widespread. Scores of people were killed, not only by the security forces deployed to repress the unrest, but also by erstwhile neighbours, fellow students, business colleagues, and even family members. In a matter of months, KwaNdebele's limited infrastructure was razed to the ground. Schools sat empty, shops and offices were gutted and entire communities lived in fear. By the winter of 1986, KwaNdebele had been irrevocably changed.

### ***Imbokodo***

293 At the very centre of this maelstrom was a vigilante organisation known as the Imbokodo. Led by the homeland's political and economic elite, the fate of the Imbokodo – or "the grinding stone" – in many ways encapsulates the tragedy that occurred in KwaNdebele. In what effectively constituted a 'reign of terror', Imbokodo members carried out daring and brutal attacks in which hundreds of ordinary residents were viciously assaulted and publicly humiliated. The resentment and anger that followed operations such as the New Year's Day raid and the Tweefontein massacre radicalised a previously apolitical population and was a significant, if not the most important, cause of the unrest. However, once the conflict had begun, "comrades" ruthlessly and methodically attacked suspected Imbokodo members and their families. Even those with the most tenuous links to the vigilante organisation or to the homeland government were at mortal risk. Scores of suspects were summarily killed, often by the infamous 'necklace'.

294 In internecine conflicts in which combatants do not wear uniforms and political loyalties are assumed rather than formalised, many people become both perpetrator and victim. This was often the case in KwaNdebele. Vigilantes identified 'comrades' simply based on their age. Comrades targeted 'vigilantes' by their occupations. In the ensuing war, few were safe.

295 Over 250 statements were made to the Commission regarding the conflict in KwaNdebele and Moutse in the mid-1980s. Collectively, the statements report almost 700 gross violations of human rights. In those statements that name a perpetrator (involving 421 alleged violations), the Imbokodo is listed as the responsible organisation in over half of the incidents. This includes allegations of Imbokodo involvement in seventeen deaths. 'Comrades' or ANC members are similarly identified as the alleged perpetrators in 14 per cent of the statements. Although the percentage of total gross human rights violations attributed to the

latter group is dramatically lower, the statements attribute twenty-four deaths to the comrades. Amongst residents who approached the Commission, at least thirty-four victims had ties to the Imbokodo or to the former KwaNdebele government. Together, their statements document twenty murders, all of which involved the burning of the deceased's body. At least nineteen of the deponents further claimed that their residential and/or business properties were completely destroyed in arson attacks.

296 Despite the significant role that Imbokodo members played in the conflict, both as perpetrators and as victims, relatively little has been written about the vigilante organisation. In contemporaneous accounts of the conflict, the Imbokodo was depicted largely as a Mafia-type hit squad formed in 1986 which operated under the personal command of Mr SS Skosana, the first chief minister, and Mr Piet Ntuli, the feared minister of internal affairs. The bulk of the organisation's membership – with estimates ranging widely from as low as 300 to as high as 900 people – reportedly consisted of KwaNdebele politicians, businesspersons, taxi-owners and some traditional leaders. From the start of the 1986 unrest, the Imbokodo was further rumoured to enjoy the approval and even the active support of the central government as well as national and local security forces. In general, then, the Imbokodo has been seen as a vigilante organisation specifically formed with the support of the South African government to assert the dominance of the KwaNdebele elite and to achieve the political goals of independence and incorporation.

297 Although this description captures the essential nature of the Imbokodo organisation as it operated in 1986, it also overlooks several significant factors in the group's development. Many of these issues have been brought to the Commission's attention in evidence submitted to the Commission and in testimony led at the Commission's special event hearing conducted in Moutse in December 1996. In summary form, the following points should be noted.

298 First, forms of vigilante activity in the KwaNdebele area predate the unrest of the mid-1980s by at least a decade. SS Skosana, elected the first president of the Imbokodo when it was officially constituted in 1986, has traced the organisation's roots to a "cultural society" formed in 1976 "when there were riots and schools were burned". Throughout the intervening decade, a number of vigilante attacks were carried out against perceived political opponents of the KwaNdebele government and its various tribal authorities. In addition, numerous tactics, including roadblocks, were used to identify and "discipline" various "agitators" especially "outsiders" – generally perceived as politicised youth from the Rand – operating in the homeland. Vigilantism thus has a long, indigenous history in the area.

299 Second, many of these activities were conducted with the blessing if not the active participation of the Ndzundza royal kraal. Despite their emergence as leading opponents of the Imbokodo in 1986, members of the royal family were involved in earlier forms of vigilante activity. In fact, individuals participating in early vigilante operations emphasised that they were "called by the king" when such activities were deemed necessary. With this history in mind, Imbokodo members have claimed that their organisation was constituted at the royal kraal and derived its authority from the king himself.

300 Third, vigilantes and members of the Ndzundza tribal authority had long employed corporal punishment as a means of maintaining order in the area and punishing those deemed guilty of breaching the peace. A variety of criminal, civil and even a few political cases were heard by the traditional court sitting at the offices of the Ndzundza tribal authority. Those convicted of offences were regularly sentenced to a number of lashes with a *sjambok*. In 1986 when Imbokodo members relied on the whip to "discipline" opponents of incorporation and independence, they again claimed that they were only following "traditional Ndebele ways."

301 Despite these continuities with the past, the evidence before the Commission also reveals important differences between the activities of the Imbokodo and earlier forms of vigilantism. First, whereas early vigilante activity generally focused on specific perceived 'agitators', Imbokodo raids targeted entire communities, leading to widespread and indiscriminate assaults on residents. Second, although early vigilante activity enjoyed the express approval of the royal family and as a result was accepted as legitimate by a large sector of the population, the actions of the Imbokodo were denounced by the royal family and were clearly unacceptable to the vast majority of KwaNdebele residents. In the changed circumstances of the mid-1980s, vigilantism became a source of conflict rather than a means of diffusing it. While at one time tribal police officers were seen as community protectors, Imbokodo members were essentially viewed as a political army. Finally, although tribal courts operated according to a known and widely accepted procedure involving the presentation and evaluation of evidence and testimony, Imbokodo assaults offered no such defence to the accused. Residents abducted by vigilantes were summarily assaulted in mass beatings carried out in various government-owned buildings. Such occasions resembled torture sessions more than court proceedings.

302 Perhaps the greatest tragedy of the conflict lay in the South African government's ambiguous approach to the Imbokodo. Although not directly established or

controlled by the South African government, politicians and policy-makers in Pretoria failed to act against the Imbokodo even when their officials on the ground encouraged them to do so.

## The incorporation dispute

303 The KwaNdebele Legislative Assembly passed a motion calling on the cabinet to pursue independence in May 1982, following Ciskei's independence the previous year. However, the most significant impediment to KwaNdebele independence was the area's meagre development. KwaNdebele lacked basic infrastructure. It had few roads and no hospitals. In order to boost the area's viability before independence, the South African government planned to incorporate two historically non-Ndebele areas, Ekangala and Moutse, into KwaNdebele. In 1983, the Department of Co-operation and Development (DCAD) convinced the South African government that Moutse's incorporation was economically and politically necessary to ensure KwaNdebele's independence.

### *Ekangala*

304 On February 9, 1985, Mr Gerrit Viljoen, then the Minister of Co-operation and Development, announced that the nearly 5 000 residents of Ekangala, a "de-centralisation" township near Bronkhorstspruit, would be incorporated into KwaNdebele. The announcement initiated a wave of popular resistance amongst residents, most of whom had moved to the area from overcrowded areas of the East Rand. The Ekangala Action Committee (EAC) took the lead in organising a campaign of mass resistance. The EAC turned its attention to fighting plans for incorporation. The KwaNdebele government responded by intensifying the reign of terror against the action committee. Imbokodo vigilantes assaulted and terrorised the people of Ekangala in night raids, using pangas, sjamboks and clubs. Their activities included breaking doors and windows, beating people unconscious and abducting them in boots of motor vehicles to appear before the "tribal court". A common feature of the assaults was that people were told to get out of Ekangala. A young schoolboy was allegedly shot and killed. At least three other supporters of the EAC were allegedly beaten, including a mother and her daughter. Several others were arrested.

305 After this, repression in the township fell to vigilantes loyal to the KwaNdebele administration. In fact, many of the raids appear to have been planned by senior homeland politicians. KwaNdebele cabinet minister FK Mahlangu was known to

have participated in the nocturnal raids of balaclava-clad vigilantes that terrorised the township from late March onwards. The house of Mr Peter Kose, the widely respected vice-chairman of the EAC, was attacked and all its doors and windows broken. Subsequently his daughter and other children of EAC officials were expelled from school. By the end of July 1985, Kose had been abducted three times, the last time in front of witnesses who watched in horror as his abductors swung him around by his heels until his head bounced along the ground. After he lost consciousness, he was bundled into the boot of a waiting car and taken to a vigilante's house for further torture. The police, acting on a complaint from Kose's wife, later rescued the battered community leader. However, Kose was subsequently jailed on an assault charge filed by his abductors. Only after legal intervention were the charges dropped and Kose released.

306 While Kose's case illustrates the extreme measures to which the vigilantes were willing to go, he was by no means alone in suffering at the hands of KwaNdebele's intimidators. By the end of the year, *The Weekly Mail* reported that nearly one-third of the township's residents had fled the vigilante's reign of terror. Those who remained demanded resettlement to the East Rand, regardless of the overcrowding that had prompted their original move to Ekangala. Despite evidence implicating the vigilantes in the ongoing violence in the area, South African officials failed to act against the Imbokodo's excesses.

### ***Moutse***

307 Moutse is home to one of the region's longest-established communities. Members of the Bantoane, the largest chieftaincy, have lived in the area since the latter half of the eighteenth century. Although their ancestors are Setswana speakers from what is today Botswana, the Bantoane have resided in the area long enough to claim, albeit without proof, that their present boundaries were personally laid down by Paul Kruger. Throughout this century, a number of other ethnic groups have settled in Moutse. According to the 1980 census, 58 per cent of the population was Sotho, 38 per cent was Ndebele and 3 per cent was Shangaan/Tsonga. Because of the area's early settlement, 53 per cent of the land was held under individual or communal freehold tenure. The rest of the area was Trust land. By the mid-1980s, the 66 000-hectare region contained forty-three villages with approximately 120 000 residents. Under separate development, three tribal and three community authorities had been designated and jointly formed a regional authority. The Bantoane (later renamed the Moutse) Regional Authority was a constituent part of Lebowa when the territorial authority was established in 1962.

From the beginning, Moutse had always been included in the government's plans for the Northern Sotho 'national unit'.

308 However, on the recommendations of the 1975 select committee for Bantu Affairs, the government considered incorporating Moutse into the soon to be established Ndebele homeland. Given Moutse's history and its ethnic composition, many analysts condemned the proposal as a violation of apartheid's ethnic ideal. Internal DCAD memoranda reveal that the department realised that their plans for Moutse represented a significant change of emphasis. Nevertheless, officials justified Moutse's incorporation based on a number of administrative, economic and developmental considerations. For its part, the 1975 select committee was motivated by a number of concerns. First, the incorporation of Moutse would have greatly expanded the area of the small KwaNdebele homeland. Second, the enlarged homeland would have remained a contiguous area, a goal frequently mentioned by apartheid planners but rarely achieved. Third, KwaNdebele's land area and population size would be boosted without the costs and negative publicity accompanying physical removals. Finally, given Moutse's combination of trust land and African freehold, the area's incorporation would boost KwaNdebele's size without the state having to purchase white farms or modify the amount of land occupied by Africans in terms of the limits set by the 1936 Land Act. In 1980, the central government excised Moutse from Lebowa, the first step towards acting on the select committee's recommendation.

309 Following Moutse's excision from Lebowa, the South African government made periodic announcements on their plans for the historically Northern Sotho area. In ongoing negotiations between Moutse leaders, the Lebowa cabinet and officials of the central government, it had clearly been established that the South African government would offer Moutse to KwaNdebele in order to boost the homeland's viability prior to independence. Throughout this period, however, Moutse's traditional leaders made it abundantly clear to representatives of the South African government, including PW Botha and Ministers Koornhof and Heunis, that they were opposed to independence. Moutse's chiefs and homeland politicians further warned that an attempt forcefully to implement incorporation plans would inevitably lead to bloody resistance.

310 Messrs Mmusi Moses Mathebe, Paledi Cecil Mathebe and Solomon Moseme Malefahlo and many others from Moutse were assaulted by Imbokodo vigilantes after a raid at the kraal of Chief Elliot Mathebe, the Kgobokoane chief who opposed incorporation. The intention of the attack was to kidnap the chief, the

living embodiment of the tribe, as an assertion of the power of Imbokodo, and to instil terror in the resisting members of the Moutse population. The assault on the three men (one of whom, Mmusi Mathebe, was initially thought by the attackers to be the chief) continued until neither attacker had the strength to raise his weapon. Exhausted by their efforts, the vigilantes then took Mmusi Mathebe and others to another room where the floor had been covered in a slippery soap solution. Here the men were made to run in circles, like circus animals, while their captors waited for one to slip and fall. Once down, the unlucky individual was again brutally assaulted until he regained his feet. Approximately twenty minutes later, the vigilantes apparently tired of the game and took Mmusi Mathebe, Paledi and Malefahlo who were then bleeding into an adjoining room full of prisoners. Here, the three men spent the night propped against walls already red with blood. The following day, vigilantes simply dropped the injured men along the road separating Moutse from KwaNdebele, fearing that their car might be damaged if they ventured out of the homeland.

- 311 Vigilante attacks on dissenters were not limited to residents of areas marked for incorporation. By December 1985, the Imbokodo were also attacking KwaNdebele residents suspected of resisting independence or opposing the homeland cabinet's authority. Members of the Imbokodo viciously assaulted residents of the southern village of Kwaggafontein, especially supporters of prominent local politician Klaas Makhosana Mahlangu.
- 312 Mahlangu had played a significant, if somewhat controversial, role in Ndebele politics. His position as a community leader was further enhanced by his dual claims to traditional power. In the southern KwaNdebele village of Kwaggafontein where he lived, he was known for his sympathetic understanding of the largely resettled population that he sought to lead. As many of his neighbours had recently fled to KwaNdebele from Winterveld and other areas of Bophuthatswana, Mahlangu was particularly aware of local antagonism towards the concept of homeland independence. Consequently, Mahlangu had long been recognised as a leading sceptic of Pretoria's plans for the homeland. While not critical of the idea of a Ndebele homeland *per se*, Mahlangu spoke resolutely against attempts to forcibly incorporate non-Ndebele areas or to accept independence. As early as 1977, he was assaulted and harassed by supporters of the KwaNdebele executive for publicly opposing political developments in the homeland. In late 1985, the KwaNdebele cabinet again sought to silence Mahlangu – and his growing number of supporters – using vigilante intimidation.

313 On 19 December 1985, Mahlangu, his wife and his mother were abducted by Imbokodo vigilantes from Kwaggafontein. They were taken to Emagezeni, a place of torture. Fortunately for Mahlangu, the station commander at Kwaggafontein police station intervened to save him and his family from physical attack. Following his release into police custody, he was allowed refuge at the police station until a policeman could safely drive him out of the area. Mahlangu fled KwaNdebele.

314 Other Kwaggafontein residents were not so lucky. They were beaten with sjamboks (whips), *knobkieries* (clubs) and pickhandles. They were forced to go into the house where there was soapy water. Mr Senzani Mateu Morake [JB02793] is today disabled because of Imbokodo vigilantes. Mr Boy Simon Mahlangu [JB2914] permanently lost the hearing in his right ear. Several other Kwaggafontein residents reported similar attacks to the Commission.

315 Despite obvious signs of growing mass resistance, the South African government proceeded with plans for incorporation and independence while simultaneously failing to act against the illegal excesses of the Imbokodo vigilantes.

316 Officials of the South African government received information that could have warned them of the violence to come. The EAC sent a memorandum to both the East Rand Administration Board and to the Department of Constitutional Development and Planning (DCDP), which was signed by over a thousand residents and which outlined the unrest and resistance which had emerged in the township. The area's highest ranking security officer, Captain Chris Kendall, allegedly warned the homeland politicians that the activities of Imbokodo only served to heighten the unrest and alienate residents. He also told the ministers that the EAC was not a radical organisation and that its members could be counted on to resolve the issue peacefully if given the right conditions. The KwaNdebele cabinet ignored Kendall's advice. Kendall, who had previously enjoyed a warm relationship with members of the cabinet (he had once been their shooting instructor at Bronkhorstspruit) quickly fell into disfavour with the KwaNdebele government.

317 Following the assassination of Piet Ntuli, the cabinet declared Kendall *persona non grata* and successfully demanded that the SAP transfer him from the area. Although the KwaNdebele cabinet's distrust of Kendall was understandable, the South African government's attitude towards him was less clear. Despite his position as the area's highest-ranking security officer, Kendall's perspective on the conflict does not seem to have informed Pretoria's approach to the situation. In this and other instances, politics – namely, the need to satisfy the wishes of the

KwaNdebele cabinet in order to achieve Pretoria's own objectives – appear to have taken precedence over the security evaluations of the state's operatives on the ground.

- 318 With respect to Moutse, South African officials received even more direct and clear warnings on the possible repercussions of their policies. On September 25, 1985, Minister Chris Heunis announced final consolidation plans for Lebowa that confirmed Moutse's excision. Within the week, officials from Pretoria visited Chief Gibson Mathebe of the Bantoane, Moutse's largest chieftaincy, in an attempt to secure his co-operation with the area's incorporation into KwaNdebele. Mathebe warned the government "in emphatic and unambiguous terms" of the "disastrous consequences" which would result from the forced transfer of the area.
- 319 In the face of opposition from Moutse's leaders and despite predictions of violence, the central government nevertheless proceeded with Moutse's transfer. On 5 December, Heunis issued the last in a long line of public statements confirming Moutse's official incorporation. The date for the transfer was set for the last day of the year. As compensation, the Minister offered to resettle residents who were unhappy with the incorporation at an alternative site being developed at Immerpan, approximately one hundred kilometres from Moutse.
- 320 On at least two occasions in October and December 1985, Major Daan Malan, Dennilton station commander in Moutse, discovered large groups of armed Ndebele vigilantes roaming around the Moutse area. When confronted by Malan, the group, led by Chief Minister SS Skosana and several other KwaNdebele cabinet members, said that they were patrolling the area to ensure that the inhabitants supported the imminent incorporation. Fearing a potential conflict, Malan ordered the vigilantes out of the area. In turn, the cabinet lodged an official complaint against Malan with his superior, Brigadier van Niekerk. The district commander backed up his officer, however, informing the ministers that they did not yet enjoy any jurisdiction in the area. Van Niekerk further warned Skosana that any operations in Moutse involving force would constitute a public violence offence. On December 16, 1985, when vigilantes were discovered in Moutse for the second time, Van Niekerk went to meet with Chief Minister Skosana personally in a bid to convince him to withdraw from the area. Van Niekerk has recalled that Skosana was furious, asserting that the police had done nothing to ensure that Moutse residents would accept their incorporation into KwaNdebele. The chief minister threatened that he and his own men would act since the police seemed unwilling or unable to do so. Again warning the vigilantes that their actions could result in

criminal charges, Van Niekerk finally succeeded in persuading the vigilantes to withdraw and abandon their plans. They were not, however, deterred for long (see below).

- 321 Despite the frank and clearly stated objections of Brigadier van Niekerk and Gerrie van der Merwe, the South African government transferred police functions to KwaNdebele as scheduled. As with the situation in Ekangala, the central government again followed the dictates of politics rather than the recommendations of its officials on the ground.
- 322 On 1 January 1986, a large number of Imbokodo members (and KwaNdebele men forcibly enlisted for the day) attacked the Moutse villages of Moteti and Kgobokoane. In their effort to repel the invasion, Moutse residents killed a number of vigilantes. These included four Imbokodo members suspected of trying to abduct the Bantoane chief at the royal kraal in Kwarrielaagte, Moutse. Approximately 360 Moutse residents were abducted from their homes and taken to the community hall in Siyabuswa where they were subjected to up to thirty-six hours of torture and ritual humiliation. While chanting Imbokodo slogans, the victims were forced to perform physical exercises until they collapsed. They were subsequently stripped naked and publicly sjambokked on a concrete floor covered with soapy water. Victims have testified that senior KwaNdebele politicians including Chief Minister SS Skosana and Minister of the Interior Piet Ntuli directed the beatings in the community hall. No one was ever convicted for his role in the attack.
- 323 In the days following the abductions, police patrolled the Moutse area in an attempt to disperse community gatherings and diffuse resistance. At one such meeting in Keerom, two policemen allegedly fired into a crowd, killing one resident and injuring two more. The enraged crowd chased the two policemen, eventually cornering and killing them. The police responded to their colleagues' deaths with five days of house-to-house searches. Residents have alleged that the police assaulted them and looted their property in the process.
- 324 On April 28, clashes between students and vigilantes ensued after Imbokodo members had surrounded the Mandlethu High school in Vlaklaagte no.1. The police eventually intervened to separate the two groups. After the Imbokodo were escorted from the area, the students returned home peacefully. That night, however, the Imbokodo returned and engaged in a house-to-house raid in the village. Those of school-going age were especially targeted. A number of youths were loaded into cars and *bakkies* (vans) and taken to Emagezini, a small industrial

complex in Kwaggafontein, where they were assaulted with a variety of weapons. Many were severely wounded.

325 Jacob Skosana, a father of eight, was the only adult taken to Emagezini. Before the day's events, Skosana had not been active in the unrest. However, after rumours reached him that one of his daughters had been taken from school by the vigilantes, Skosana allegedly confronted various Imbokodo members about his daughter's whereabouts. That night he was abducted from his home by a group of men. Vlaklaagte youth leaders subsequently testified that they saw Skosana, already badly beaten, at Emagezini. Early the next morning, Skosana's dead body was dumped back in the yard of his home and surrounded by fire so that it could not be retrieved immediately by his family. When the body was recovered, it had allegedly been mutilated. News of the incident spread quickly through the village and eventually through all of KwaNdebele. Skosana's burial was the homeland's first political funeral.

326 Although officially limited to fifty mourners, Skosana's funeral drew thousands. When the police arrived, reportedly with SADF back-up, they ordered the assembled crowd to disperse immediately. Shortly thereafter, they fired tear gas, birdshot and rubber bullets at the mourners, creating panic in the crowd. Ms Sara Mthimunye (19) was run over by a bus whose driver had been overcome by the tear gas. Many others were injured in the mêlée. That night, comrades began burning the businesses of suspected Imbokodo members and MPs in the legislative assembly.

327 On 7 May 1986, PW Botha announced that KwaNdebele would take independence on 11 December 1986. When press reports reached KwaNdebele, residents approached the Ndzundza royal kraal and requested the king to call a public gathering with the KwaNdebele cabinet. The meeting was held on May 12 and was attended by an estimated 20 000 residents, the area's chiefs and two representatives of the homeland cabinet (who were advised to travel to the meeting in a Casspir). At the meeting, three demands were presented to the government representatives: the disbanding of Imbokodo; the cancellation of independence; the resignation of members of the KwaNdebele cabinet and legislative assembly for acting without a popular mandate. After the cabinet promised to prepare a response for a report-back meeting scheduled for May 14, the crowd dispersed peacefully.

328 The next day Jacob Skosana was buried in Vlaklaagte No.1. Late the same afternoon, the local magistrate, JN Theron, prohibited the report-back meeting at the royal kraal scheduled for the next day. A huge crowd assembled the follow-

ing morning nevertheless. Most of the estimated 25 000 that turned up were unaware of the magistrate's prohibitions. Commuters were stopped by youths at barricades on the Pretoria road and redirected to the royal kraal. Putco later reported that 'comrades' had commandeered its entire KwaNdebele fleet of some 300 buses. While the assembled crowds were still waiting for the KwaNdebele cabinet to arrive, security forces dispersed the meeting with tear-gas and rubber bullets fired from a hovering helicopter and several patrolling Casspirs. Participants have testified that no warnings or instructions were given to the crowd before the security forces acted. Chaos ensued. A careering bus, whose driver and passengers had jumped from the vehicle when it had filled with teargas, fatally struck a child in the street. The bodies of two other men were later found at the royal kraal.

- 329 In the midst of the confusion, a number of youths were abducted by Imbokodo members and taken to a makeshift detention camp in the Vaalbank area. Fifty-four youths were held there without food or water and were subjected to periodic assaults by their Imbokodo guards. Allegedly, the youths' stomachs were trampled on, their genitals squeezed in vice-grips and their feet burnt with hot coals. On May 19, one of the youths, Johannes Ramahlale, managed to escape and report the matter to the police, who raided the camp the next day and released the young 'comrades'.
- 330 In the days following the dispersed meeting at the royal kraal, conflict spread across KwaNdebele. 'Comrades', Imbokodo and security forces engaged in running skirmishes throughout the homeland. In addition to direct conflict, students, teachers and civil servants conducted successful stay-aways in the following weeks in protest of the cabinet's policies and the detention of various resistance leaders. The homeland remained a "no go" area until independence was cancelled some three months later.
- 331 Following the dispersal of the 14 May mass meeting and the attacks on Imbokodo members' properties that ensued, a virtual civil war spread across KwaNdebele. The Imbokodo responded to attacks on their members by organising counter-attacks on their former villagers. These retaliatory raids targeted especially the youth, whom the vigilantes blamed for the attacks carried out against their own properties. The attack on Tweefontein on 12 June typifies such raids. Witnesses have described how Imbokodo members travelled in convoy through the village, firing indiscriminately at youth they encountered. Four young men were killed in the 12 June attack alone.

332 As the conflict intensified over the next several months, KwaNdebele was irrevocably changed. A priest, Father Sean, recalled months of "rioting, burning and looting" in which one could "see shops and houses ablaze" daily. In one week in May alone, youth allegedly burnt a reported thirty-nine businesses, nine homes and nine vehicles, all of which belonged to suspected supporters of the KwaNdebele government. By the end of July, 70 per cent of the businesses in the homeland had been destroyed. One observer noted that virtually an entire class of traders had been liquidated. The few remaining businessmen openly co-operated with the ascendant youth organisations in order to ensure their continued survival. In practice, this often entailed giving away large amounts of stock in the hope of avoiding arson or widespread looting. As the conflict deepened and violence intensified, strong-arm tactics prevailed on all sides. Following mass abductions of youths, the Imbokodo allegedly engaged in torture sessions at Emagezini and at Klopper's Dam.

333 This period of cyclical attacks and counter-attacks introduced an important dynamic into the area's pattern of human rights violations. In short, the line between victims and perpetrators blurred, as comrades and vigilantes frequently assumed both roles. The youth, relentlessly pursued by the Imbokodo for months, initiated their own campaign against suspected vigilantes, frequently resulting in the most brutal of murders. For their part, vigilantes who had recently wielded immense power in their communities – including a *de facto* monopoly on force – were suddenly forced out of their homes in fear of their lives. Many of those who survived lost all of their worldly possessions in a matter of hours. Members of the cabinet, MPs in the legislative assembly and some of the wealthiest businessmen were forced to seek refuge in hastily constructed shanties in Verena. Overnight they had been exiled to the southern edge of a homeland they ostensibly still ruled.

334 As the Imbokodo relocated to Verena, daily confrontations between vigilantes and residents were replaced by more infrequent – but equally violent – raids and counter-attacks. One sequence of events in the southern Mkobola district of KwaNdebele highlights the prevailing dynamic.

335 On June 11, comrades carried out a planned attack on a Vlaklaagte business complex owned by Piet Ntuli, the notorious cabinet minister and vigilante leader. The comrades' raid appears to have been part of the ongoing attempt to rid the homeland of the Imbokodo. Although warned of the imminent attack by a local priest, at least one security guard was killed during the comrades' assault. Imbokodo retaliation was swift.

336 The day after the attack on Ntuli's shop, Imbokodo members raided Tweefontein, a large collection of villages in the Vlaklaagte area. Eyewitnesses have reported that the Imbokodo drove in convoy through the area, firing indiscriminately at youths running through the streets. At least four young men were fatally wounded. A number of residents were assaulted with sjamboks and *knobkieries*. Others were abducted and loaded onto a lorry accompanying the convoy.

337 Although "the burning" of KwaNdebele reached its peak in May and June 1986, violence and unrest continued. The KwaNdebele cabinet remained committed to the goals of incorporation and independence while the Ndzundza royal family and the Moutse chiefs had successfully marshalled popular resistance to such plans. Although embattled, the Imbokodo retained sufficient strength to intimidate and attack the government's opponents. The youth, for their part, had grown increasingly assertive, more effectively organised and much more violent in their approach. However, despite the control that comrades asserted in their immediate communities, they could not in fact overthrow the homeland government or "militarily" defeat the Imbokodo. The result was a bloody stalemate. At the end of July, South African security forces intervened in the conflict to alter the course of events dramatically with a single operation.

338 On 19 July 1986, members of the South African security forces assassinated Minister Piet Ntuli when a car bomb attached to his government vehicle was detonated on a Siyabuswa road. As Minister of Internal Affairs, Ntuli was known to personally issue business and taxi licenses, as well as citizenship cards. By selectively granting essential documents, Ntuli had carefully cultivated a constituency of businessmen and politicians personally indebted to him and dependent on his continued favour. Combined with his reputation as the "strongman" of the Imbokodo vigilantes, Ntuli was widely perceived as the real power within SS Skosana's cabinet and the driving force within the KwaNdebele government. Ntuli was a staunch supporter of both Moutse's incorporation into KwaNdebele and the drive for homeland independence. He also sponsored the casino proposal favoured by the KwaNdebele legislative assembly and was further tipped to succeed Skosana, already gravely ill with diabetes, as the first president of an independent KwaNdebele.

339 A number of security force operatives applied for amnesty for participation in or knowledge of the operation. These include: Brigadier Jack Cronjé (former divisional commander of the Northern Transvaal Security Branch); his subordinates Captain Jacques Hechter and Captain Jacob van Jaarsveld; Captain Chris Kendall

(Security Branch commander at Bronkhorstspruit); General Joep Joubert (commander general of SADF Special Forces); and Sergeant Deon Gouws and Warrant Officer Stephanus A Oosthuizen (both of the SAP uniform branch). In light of the fact that amnesty proceedings were ongoing at the time of reporting, it is not possible to discuss the actual operation in any great detail.

340 From the second half of 1986, the KwaNdebele Police (KNP) made extensive use of emergency regulations to detain a large number of KwaNdebele and Moutse residents. The Legal Resources Centre, which represented a number of detainees and closely monitored developments on the ground, has estimated that KwaNdebele at one stage had the highest detention *per capita* figure in the Republic. Even high-ranking officers in the SAP security branch objected to the detention practices of the KNP. For example, a security branch major who operated in KwaNdebele told the Parsons Commission that more than 2 000 residents had been detained in the homeland in the period August 1986 to 1989. Although he felt that unrest had almost completely dissipated after Ntuli's death, he noted with alarm the KNP's increasing use of emergency detentions. For example, the major reported that in mid-January 1988, the KNP had 191 emergency detainees still in custody, a figure exceeded only by two other police divisions in South Africa. Whether or not these specific assertions are accurate, it is certainly clear that emergency regulations were widely used by the KNP. It is equally apparent that detention provisions were frequently abused for political gain.

341 In KwaNdebele, two families have made statements regarding relatives who disappeared in strikingly similar circumstances. On February 11, 1987, Mr Jim Msebenzi Mahlangu, a 51-year-old headman, was detained by police at his home in Tweefontein. On 6 February 1987, Mr George Shabangu was arrested in Matchiding, allegedly in relation to an armed robbery, a claim that was not substantiated by any evidence placed before the Commission. Both individuals were subsequently reported to have escaped from custody (during this period, the police frequently used this explanation as a tactic to evade legal responsibility and accountability for deceased detainees). Over a decade later, neither has been seen or heard from again. Even their families have given up hope that they are still alive. No one applied for amnesty for either incident. Nevertheless, Commission investigations made some progress in unravelling the mysteries surrounding their disappearances and a report on one of the cases was sent to the Attorney-General for consideration. Both disappearances implicate the KwaNdebele Police in the probable death of detained activists.

# Special Investigation into the death of President Samora Machel

## ■ INTRODUCTION

- 1 On 19 October 1986, the Mozambican presidential aircraft, a Tupolev TU 134A-3 was returning from Zambia after the Lusaka Summit to be in time for Ms Graça Machel's birthday. President Samora Machel and twenty-four others died when the plane crashed in the mountainous terrain near Mbuzini near Komatipoort. The crash site is in the little triangle where the borders of Swaziland and Mozambique meet the South African border in the Lebombo Mountains.
- 2 The Margo Commission of Inquiry was established to investigate the crash and concluded that it had been caused by pilot error. A Soviet team also conducted an investigation into the incident, and concluded that a decoy beacon had caused the plane to stray off-course before it crashed into the mountains at Mbuzini.
- 3 This Commission's investigation into the matter did not find conclusive evidence to support either of these conclusions. Circumstantial evidence collected did, however, question the conclusions reached by the Margo Commission.

## ■ METHODOLOGY

- 4 All available evidence was collected and analysed by the Commission, including documents and interviews. Finally, an *in camera* hearing, in terms of section 29 of the Promotion of National Unity and Reconciliation Act (the Act), was held at the Commission's offices in Cape Town and Johannesburg to enable commissioners to test the veracity of evidence presented by witnesses.
- 5 Witnesses at the hearings included:
  - Ms Graça Machel, the widow of President Samora Machel (and now the wife of President Mandela);

- Dr Abdul Minty, former honorary secretary of the British Anti-Apartheid Movement and current deputy director general in the Department of Foreign Affairs;
- Mr JNJ van Rensburg, attorney for the Margo Commission;
- “Ben” (real name withheld to protect his identity), former Military Intelligence (MI) officer;
- Major Craig Williamson, former South African security force spy;
- Mr Anton Uys, former security police officer who headed the South African Police (SAP) investigation immediately after the crash;
- “James” (real name withheld to protect his identity), former Koevoet member and subsequent MI officer.

6 The Commission’s Investigation Unit interviewed many others in an attempt to arrive at the truth.

## ■ INVESTIGATIVE FINDINGS

### The context

7 A police video in the Commission’s possession shows South African Foreign Minister Pik Botha telling journalists at the crash site that President Samora Machel and others killed in the crash were his and President PW Botha’s very good friends, and that their deaths were therefore a tragedy for South Africa. However, cabinet minutes record that, for several months before the crash, tensions between South Africa and Mozambique were increasing.

8 Shortly before the crash, the Mozambican chief of staff accused the Malawi government of President Hastings Banda of assisting “South African surrogates” (RENAMO, the National Resistance Movement in Mozambique) to set up bases in Malawi, and of issuing travel documents to, amongst others, the RENAMO leader.

9 A month before the crash, President Machel confronted President Banda in the presence of his Zambian and Zimbabwean counterparts in an acrimonious exchange in Blantyre. President Banda was given an ultimatum to stop his activities or

Mozambique would close its borders with Malawi. After the meeting, President Machel called a news conference at Maputo airport, saying that he would place missiles along the border with Malawi and would not hesitate to launch a pre-emptive strike if necessary.

- 10 Following this, thousands of RENAMO troops left Malawi and entered northern Mozambique. An escalation of hostilities ensued, threatening to divide Mozambique in two.
- 11 In addition, weeks before the crash, six South Africans died in a landmine explosion on the border with Mozambique. South African Defence Minister Magnus Malan threatened President Machel openly for the first time – “he will clash head-on with South Africa” – and alleged that Mozambique had renewed its support for the African National Congress (ANC). This was followed by the termination of 58 000 Mozambican jobs in South Africa, a devastating blow to the fragile economy. South African military activity in Mozambique increased rapidly.
- 12 It is clear from cabinet minutes at this time that the South African government believed Mozambique to be on the verge of collapse.
- 13 On the night of the crash, President Machel was returning from the Lusaka Summit, which had focused on the liberation of the region.
- 14 After the crash, Foreign Minister Pik Botha alleged that the Lusaka Summit had plotted the overthrow the government of Malawi. No proof of this exists.
- 15 Further, the State Security Council (SSC) minutes from January 1984 indicate that the Mozambican working group, including General Jac Buchner and Major Craig Williamson, discussed how to help RENAMO overthrow the FRELIMO government (of Mozambique). Later in the same month, the SSC secretariat discussed RENAMO’s chances of success.
- 16 Ms Graça Machel told the Commission that she believed that the Malawi government had held a crisis meeting in February 1984 – after President Machel had threatened to close off Malawi’s access to the sea if that country did not cease its aid to RENAMO. The possibility of assassinating Machel was allegedly discussed. According to Ms Machel, who gave moving testimony, this proposal was later put to President Banda. The following week, Banda dispatched his senior officers to South Africa for a meeting with President PW Botha, who sent back a message of solidarity.

- 17 A South African delegation headed by Defence Minister Magnus Malan travelled to Malawi and met with President Banda.
- 18 Ms Machel believed that the meeting discussed the formation of a special team to monitor the Mozambican president and to recruit senior Mozambican officials to co-operate with them. They allegedly even discussed the recruitment of an official at the Mozambican control tower.
- 19 A Zambian pilot, Mr Frankeson Zgambo, was recruited and trained by Major Craig Williamson to gather information about President Machel. Major Williamson admitted to this, but insisted that he knew nothing of a plot to assassinate the President.
- 20 There is no doubt that President Machel was under enormous pressure at the time of his death, not least because of divisions in his own party. Ms Graça Machel confirmed previous attempts on his life, attacks on his residences and attempts by South Africa to attack the Mozambican capital. He was also engaged in a radical restructuring of both his cabinet and the military, which could have upset a number of high-ranking Mozambicans.

## The crash

- 21 Of the thirty-four people on board the presidential aircraft at the time of the crash, only nine survived.
- 22 One of the survivors walked to a nearby house to ask for help. Arriving back at the scene, he found security force officers already there. Others who arrived to assist, including a nurse, told the Commission that they were chased from the site. They also reported that the security force officers were seen rummaging through the wreckage and confiscating documents. Foreign Minister Pik Botha and Mr Niel Barnard, head of the National Intelligence Service, admitted that documents had been removed from the scene for copying.
- 23 Mozambique was informed about the incident only a full nine hours after it happened, after a massive land and sea search. The Commission heard evidence that the Mozambican Minister of Security contacted the South African security forces as soon as the Mozambican authorities realised the plane was missing. They were not informed about the accident.

## The Margo enquiry

- 24 The day after the crash, Mozambique and South Africa agreed that an international board of enquiry should be established with the participation of the International Civil Aviation Organisation. According to the Chicago Convention, South Africa, as the state on whose territory the crash had occurred, would head up the investigation. South Africa was, however, obliged to work in partnership with the state of ownership (Mozambique) and the state of manufacture (the Soviet Union). These countries were not, however, taken on as equal partners, and withdrew their participation after the initial stages.
- 25 The investigation was delayed for several weeks by General Lothar Neethling's refusal to hand over the cockpit voice recorder (the black box), which he had seized at the scene of the crash. Colonel Des Lynch, who headed the police investigation, told the Commission that it took a letter from a lawyer to persuade Neethling to release the box to the investigators.
- 26 The Margo Commission of Enquiry concluded that the aircraft had been airworthy and fully serviced and that there was no evidence of sabotage or outside interference. The board:

*unanimously determined that the cause of the accident was that the flight crew failed to follow procedural requirements for an instrument let-down approach, but continued to descend under visual flight rules in darkness and some cloud without having contact with the minimum safe altitude and minimum assigned altitude, and in addition ignored the Ground Warning Proximity alarm.*
- 27 The Soviet delegation issued a minority report, which stated that, their expertise and experience had been undermined. They advanced the theory of a false beacon, although Mr Justice Margo denied in his report that this charge was formally laid before the board.
- 28 The Soviet report focused on the 37 degrees' right turn that led the plane into the hills of Mbuzini. It rejected the finding of the Margo Commission, saying that the crew had read the ground proximity warning as false since they believed themselves to be in flat terrain as they approached landing.
- 29 A former television journalist who was allowed to attend the on-site investigations by the joint Soviet, Mozambican and South African team told the Commission

that the television crew was approached on the first afternoon by an investigator of the Directorate of Civil Aviation who was holding a device the size of a pound of butter. The investigator informed the television crew that this could have been a frequency scrambler.

30 During the Margo enquiry, members of the Margo enquiry team told a journalist that the device had been found to be harmless. However, an expert on mobile beacons told the Commission that the device could have decoded the aeroplane's signal, locked onto it and been used to interfere in the direction of the aircraft.

### The VOR beacon

31 The report of the Margo enquiry includes a reference to the fatal turn made by the aircraft, stating that it was following the signals of a VOR (very high frequency omnidirectional radio) which was not that of Maputo. Mr Justice Margo argued that the beacon at Matsapa airport in Swaziland, which had a similar code, might have led the plane astray.

32 The Commission received information that the Matsapa airport company, SASEA, had been run by a well-known alleged member of the Italian Mafia with close links to the South African security establishment. Intelligence reports provided by the National Intelligence Agency show that airport control in Maputo had fallen into the same hands. Control over the Matsapa airport and the Maputo control tower would have been essential to the success of a decoy beacon.

33 A South African Airways (SAA) signal expert, Mr Paul Gelpin, was emphatic that "the only way that a rogue beacon could have worked was if there was an accomplice at the Maputo VOR who switched it off for the critical period of the plot". This possibility is strengthened by allegations that Mr Cornelio Vasco Cumbe (alias Roberto Santos Macuacua), who worked at the control tower at Maputo airport, had been recruited by the South African security forces. Moreover, Dr Abdul Minty revealed that the tapes at the Maputo airport had been lost.

34 Regarding the existence of a mobile decoy beacon, a South African Air Force flight sergeant, who was at 4AD Snake Valley near Pretoria during 1986 told the Commission that he had seen a friend building such a beacon in the month before the crash. He described the assembly and workings and provided technical sketches and background to illustrate the beacon's appearance and operation. It had left the base with its builder during the weekend of the crash and was returned the following week.

- 35 The flight sergeant testified that such a beacon could have been used to divert and bring down a plane. The Commission was given the name of the person who built the beacon and the person who gave the orders for it to be built.
- 36 Two pilots flying in the area that night have said the Maputo signal came on unusually early.
- 37 In August 1998, the Commission was given the name of a person who is alleged to have erected a decoy beacon on the side of the mountain at Mbuzini. The end of the lifespan of the Commission's Human Rights Violations Committee at the end of August 1998 prevented the investigators from corroborating this information.
- 38 Investigations also revealed that, had there not been an intention to bring the aircraft down, the South African authorities could have prevented the incident, or at least ensured fewer casualties. There is no doubt that the South African authorities had the ability to monitor the aircraft. According to Dr Minty, the head of the South African Air Force responded to an article he wrote for Amnesty International Monitor shortly after the crash, acknowledging that the air force had in fact monitored the aircraft that night.
- 39 Although the plane entered a military and operational zone (a "special restricted airspace") which was under twenty-four hour radar surveillance by a highly sophisticated Plessey system, no warning was given that the plane was off-course and in South African airspace, nor was preventive action taken. A member of the Mozambican investigating team told the Commission:

*I think it is reasonable to assume that they (the South Africans) saw the flight diverting from its normal path, going towards the crash site. And I also think that it's reasonable to say that they failed all the basic norms and regulations of international aviation. Because they failed to warn the crew about the mistake which was being made.*

## **The South African security forces**

- 40 A large number of South African Special Forces troops converged in the area of Komatipoort/Mbuzini on the night of the crash.
- 41 "Ben" a former MI officer, testified at the section 29 enquiry in Cape Town that he had been based at Skwamans, a secret security police base shared with MI

operatives halfway between Mbuzini and Komatipoort, at the time of the incident. He claims that a number of high-ranking security force officials converged on Skwamans for a meeting and a *braai* the day before the crash. They left late that night in a small plane and some returned after the crash had taken place. In a sworn statement, he provided the names of General Kat Liebenberg, Foreign Minister Pik Botha, General van der Westhuizen of Military Intelligence (MI) and about fifteen others, mostly from Eastern Transvaal Command and Group 33.

- 42 Also present was the Eastern Transvaal MI head, Captain Wayne Lelly, who headed up another secret base, Sub-station 4, which overlooked the mountain where the plane first hit. This base was opened a year before the crash and, according to "Ben", was used by MI to interrogate cadres. "Ben" alleges that some of the operatives went to Sub-station 4 "at the crack of dawn" on the day of the crash. He also forwarded the names of some *askaris* and five reconnaissance force members.
- 43 Captain Lelly now lives in Mozambique and has confirmed his presence on the scene, but claims it was for another operation.
- 44 An independent source confirmed to a Gauteng investigator that Skwamans was closed shortly after the crash. Several other sources confirmed the presence and involvement of Captain Lelly and an MI planning commander.
- 45 Many other security force members confirmed to the Commission that there had been a strong presence of police and military personnel in the area at the time of the incident.

### The wreckage

- 46 The Commission attempted to track down the scattered pieces of wreckage of the plane. It was decided that the Commission would assist the Department of Arts and Culture, Science and Technology in its effort to collect the pieces as part of their planned memorial for Mbuzini.
- 47 The main pieces of wreckage are still at Tonga police station, where they were taken after the investigation. Some pieces found their way to a game farm. The rest of the wreckage is at a scrap yard in Wittrivier.

## ■ CONCLUSION

48 The investigations conducted by the Commission raised a number of questions, including the possibility of a false beacon and the absence of a warning from the South African authorities. The matter requires further investigation by an appropriate structure.

# Special Investigation into the *Helderberg* Crash

## ■ INTRODUCTION

- 1 On 28 October 1987, the SAA *Helderberg*, a Boeing 747, crashed into the sea off the coast of Mauritius. All 159 people on board died. Almost immediately after the incident, allegations of foul play were made. A year later, in January 1989, the South African government established a commission of enquiry headed by Justice Cecil Margo to determine the cause of the crash.
- 2 The Margo Commission found that the crash was caused by a fire on board, but that the cause of the fire was undetermined. Many people rejected this finding, including investigative journalists who insisted that there were strong indications that the fire was caused by dangerous substances on board. Allegations were made that South African Airways (SAA) passenger flights were used to courier arms components and explosives in sanctions-busting activities by the parastatal Armscor.
- 3 Whilst no hard evidence was provided to back these claims, journalists continued to find circumstantial evidence to suggest that the *Helderberg* could have been carrying such dangerous substances, and that these might have caused the fire on board, leading to the crash.
- 4 Former SAA employees came forward, often anonymously, to support the allegation that it was not unusual for passenger flights to carry dubious parcels destined, they presumed, for Armscor. Moreover, members of the Flight Engineers Association indicated that the Margo Commission had overlooked important information when investigating the incident. There were allegations of cover-ups by the Margo Commission and experts suggested that the fire might have been "self-promoted" (with a self-generated oxygen source).
- 5 The allegations of a cover-up and uncertainty about the cause of the fire prevented families of victims from putting the matter to rest. Individual submissions were made to this Commission by Mr Peter Wills, twin brother of John Wills

who was killed in the crash, Mr Rod Cramb, brother of a crew member; Mr Pieter Strijdom, whose wife died on board; and Ms Michelline Daniels, who lost her brother. The Commission also received a submission from Friends of the Victims of the *Helderberg*, urging the Commission to find the cause of the destruction of the plane.

- 6 The Commission began an investigation in late 1997 despite the fact that it was unclear whether the crash was politically motivated, a criterion for an enquiry by the Commission. Although extensive enquiries were conducted and circumstantial evidence collected, the Commission was unable to determine the cause of the fire. It is hoped, however, that the Commission's efforts will assist any future investigations into the matter.

## ■ **METHODOLOGY**

- 7 An enormous amount of documentation about the incident was made available to the Commission by an investigative journalist. Documents included cargo manifests, submissions to the Margo Commission, newspaper reports, reports by independent scientists and engineers and a report by the Flight Engineers Association, amongst others.
- 8 Investigators analysed the documentation and identified individuals who could provide additional information to the Commission. These included families of victims and former SAA employees. Once these individuals had been interviewed, the Commission decided to approach a further group of people. Many of these represented the interests of the implicated parties, such as SAA and Armscor. It was decided that the Commission should utilise its section 29 powers to hold an *in camera* investigative enquiry to canvass the views of these people. This would provide them with an opportunity to answer questions in the presence of their legal representatives and would enable a panel of Commissioners to evaluate the information gained at first hand. The following people appeared as witnesses at the hearing:
  - Mr Joseph Braizblatt, SAA cargo manager at Ben Gurion airport, Tel Aviv, Israel;
  - Dr David Klatzow, an independent forensic scientist;
  - Mr Richard Steyl, an Armscor employee in the shipping department;
  - Dr J Steyn, a former Armscor employee and MD of Altech Electronic Systems, which had two loads of cargo on the *Helderberg*;

- Mr John David Hare, a former Armscor employee who joined SAA;
- Mr Brian Watching, a former SAA employee;
- Mr Tinie Willemse, a lawyer who was chief director: international relations of SAA at the time of the incident;
- Mr Gerrit Dirk van der Veer, chief executive officer of SAA at the time of the incident;
- Mr Thinus Jacobs, manager of SAA in Taipei between 1987 and 1991;
- Mr Mickey Mitchell, chief of operations for SAA at Jan Smuts (incorporating Springbok Radio Tower) at the time of the incident;
- Dr André Buys, Armscor general manager: planning.

9 Others who were interviewed included:

- Mr Japie Smit, director of civil aviation;
- Mr Leslie Stokoe, an expert on dangerous goods;
- Mr Vernon Nadel, duty officer at the Springbok Radio centre on the night of the incident;
- Mr Rennie van Zyl, current chief director of civil aviation;
- Mr Jimmy Mouton, SAA flight engineer and friend of the flight engineer killed in the crash.

## ■ INVESTIGATIVE RESULTS

### The cause of the fire

10 Nothing in the cargo inventory could have resulted in a "self-promoted" fire. However, the original cargo manifests were not part of the record of the Margo Commission, and it is uncertain whether those in the possession of the Commission are authentic. There is therefore no reliable list of what cargo was being transported by the *Helderberg* when it crashed.

11 It was suggested to the Commission that Armscor may have had a goods consignment on the *Helderberg* that could have been responsible for causing the fire. Armscor conducted an internal investigation after the incident and denies having had any items on the flight.

- 12 The Commission believed that two Armscor employees from the company Somchem, which was producing rockets and missiles during the apartheid years, could provide important information. Armscor could not assist the Commission in locating either Dr JJ Dekker, who was the MD of Somchem, or Mr François Humphries, who was procurement officer at the time.
- 13 Interviews with SAA pilots indicated that there was a belief amongst pilots that passenger flights were frequently used to transport armaments and components for Armscor.

### The timing of the fire

- 14 Much time has been spent attempting to determine the exact time the fire broke out. The conclusion reached by the Margo Commission was that the fire started just before the descent to land in Mauritius.
- 15 This conclusion is questionable because of the fact that there is no overlap between the conversation of the cockpit voice recorder (CVR, commonly known as the black box) and the conversations between the *Helderberg* and Mauritius air control an hour before the crash and again four minutes before the crash. This could indicate that the CVR stopped recording before the descent for landing, and the recorded conversation could therefore have taken place at any time on the nine-hour flight from Taipei.
- 16 The conversation on the CVR was analysed by the Flight Engineers Association, which concluded that the discussion was likely to have taken place within three hours of the flight leaving Taipei. This would indicate that something stopped the recording at this early stage of the flight. The flight engineers presented the Margo Commission with a submission indicating that they believed there had been two fires on board.
- 17 The Margo Commission ruled most of the CVR recording inadmissible because it was irrelevant and too personal. Analysts have argued that this decision by Justice Margo prevented his commission from accurately placing the conversation and may therefore have led to incorrect conclusions.
- 18 The theory of two fires on board was impossible to test adequately, since the recording of the conversations between the *Helderberg* and South African air traffic control went missing shortly after the incident and was never recovered.

In a letter to the Commission, a United States marine said that the CIA had a recording of this conversation. The Commission wrote to the director of the CIA asking him to confirm this and to make a copy available. No response was received.

## The fire

- 19 The Margo Commission did not find a cause for the fire on board the *Helderberg*, but said that it might have been caused by "ordinary packaging material". This Commission's investigation indicates that ordinary packaging material is unlikely to have been the cause, for the following reasons:
  - The fire was contained, and burnt fiercely at a high temperature.
  - A packaging material fire causes a great deal of smoke, which would have set off the smoke alarms before the fire threatened the structure of the plane. The indications are that the smoke detectors were not activated until the fire had reached dangerous proportions.
  - A promoted fire could reach very high temperatures (far in excess of 1000 degrees Celsius) without setting off smoke alarms.
  - A promoted fire could cause packaging materials to catch alight if they were to be exposed to the flames.
- 20 The possibility of a "self-promoted" fire is raised in a submission to the Margo Commission by Mr Greg Southeard, a chemist working for Burgoyne and Partners of the United Kingdom. Southeard indicated that he believed that the fire could have been caused by an incendiary device or a hazardous substance.
- 21 The director of civil aviation, Mr Japie Smit, told this Commission that most of such fires the world over are caused by illegal substances on board, and said that, when they simulated the fire, they were unable to put it out without the assistance of the fire brigade.
- 22 A letter from a Somchem employee to a journalist working on the matter stated that:

*South Africa's ammonium perchlorate (APC) production facility was set up in the 1970s at Somchem. Around the time of the Helderberg crash, South Africa was involved in military operations in Angola, Namibia and on the home front. The operational demand for solid rocket fuels was high. Somchem was not keeping up with the demand. A decision was made to double the capacity. This involved shutting down the plant for the duration of the extensions.*

*Because of the ongoing demand, it was impossible to stockpile APC prior to the shutdown. Obviously a large quantity of APC had to be sourced outside the country for a period of several months in defiance of prevailing military sanctions. This was difficult and expensive, and I believe that initially the necessary APC was sourced from America and that it was brought in on SAA passenger planes as an integral part of the necessary deception (Commission's summary).*

23 Ammonium perchlorate is used mainly in military Class One applications, and as such is forbidden on all aircraft. Class Five, for commercial/technical application, could be carried by air in limited quantities depending on the type of aircraft (passenger or cargo) and packaging instruction. Supplier countries include the United States, China, Japan and France.

## The investigation

24 Questions raised throughout the investigation process indicated that the investigators of the Margo Commission had not followed correct procedures. The matters raised are summarised in the finding below.

## ■ CONCLUSION

25 This Commission's investigation into the *Helderberg* crash raised significant questions about the incident itself as well as the subsequent investigations that were conducted.

26 The matter is still under investigation by the special investigation team of the Gauteng Attorney-General.

THIS COMMISSION'S INVESTIGATION INTO THE CRASH OF THE *HELDERBERG* ON 28 OCTOBER 1987 SHOWED THAT MANY QUESTIONS AND CONCERN REMAIN UNANSWERED, INCLUDING THE FOLLOWING:

- THE DIRECTOR OF CIVIL AVIATION (DCA) NEGLECTED TO SECURE ALL DOCUMENTATION AND RECORDINGS AS REQUIRED BY THE FLIGHT ENGINEERS ASSOCIATION [FEA] REGULATIONS: THE CARGO MANIFESTS WERE MISSING.
- MR JIMMY MOUTON OF THE FEA ALLEGES THAT THE FEA WAS REQUESTED BY THE LAWYER ACTING FOR THE DCA, AS WELL AS BY JUSTICE MARGO HIMSELF AT A LATER STAGE, TO WITHDRAW ITS SUBMISSION INDICATING THAT THERE MAY HAVE BEEN TWO FIRES ON BOARD.

- THE TAPE WHICH WOULD HAVE RECORDED CONTACT BETWEEN THE HELDERBERG AND SPRINGBOK RADIO CONTROL REMAINS MISSING.
- EYEWITNESSES OF THE CRASH WERE NOT CALLED TO GIVE EVIDENCE BEFORE THE MARGO COMMISSION.
- THE MARGO COMMISSION DID NOT CALL MEMBERS OF ARMSCOR TO GIVE EVIDENCE.

27 It is clear that further investigation is necessary before this matter can be laid to rest.

# Special Investigation into Project Coast

## SOUTH AFRICA'S CHEMICAL AND BIOLOGICAL WARFARE PROGRAMME

### ■ INTRODUCTION

- 1 The Commission's hearings into South Africa's Chemical and Biological Warfare programme (the CBW programme, also known as *Project Coast*) during the 1980s and early 1990s, were held in Cape Town in June and July 1998. The hearings focused on the apparently offensive (as opposed to defensive) aspects of the programme. The image of white-coated scientists, professors, doctors, dentists, veterinarians, laboratories, universities and front companies, propping up apartheid with the support of an extensive international network, was a particularly cynical and chilling one. Here was evidence of science being subverted to cause disease and undermine the health of communities. Cholera, botulism, anthrax, chemical poisoning and the large-scale manufacture of drugs of abuse, allegedly for purposes of crowd control, were amongst the projects of the programme. Moreover, chemicals, poisons and lethal micro-organisms were produced for use against individuals, and 'applicators' (murder weapons) developed for their administration.
- 2 The CBW programme, which was developed and supported by scientists, health professionals, research laboratories and front companies, fell under the nominal control of the surgeon-general of the armed forces. Ostensibly designed and conducted to support a 'defensive capability' in response to perceived external threats and international developments, the CBW programme displayed numerous bizarre aberrations of policy, management and intent. Overall approval and budget control lay with a central management committee which included the chief of staff of the defence force, the chief of staff of intelligence, the surgeon general as project manager and the project leader, Dr Wouter Basson. It became clear at the hearing that the overall command by the surgeon general and his colleagues on the co-ordinating committee was either ignored, or alternatively that they themselves were complicit in the programme's criminal aberrations.

- 3 One of the curious aspects of the CBW programme was the high level of respect it enjoyed with the military and the government of the day. The facts, as they emerged in the Commission's hearings, show that this respect was misplaced. The scientific research undertaken by the project was pedestrian, misdirected, ineffectual and unproductive. It was also exorbitantly expensive, costing the nation tens if not hundreds of millions of rands. Moreover, the evidence that emerged at the Commission's hearings demonstrates that it resulted in the substantial self-enrichment of several of the individuals involved.
- 4 The investigation began with a single amnesty application, a small number of confiscated technical documents relating to the programme and documentation from the Commission's Research Department. It expanded into a comprehensive exposé, based on more than 150 documents, *affidavits*, amnesty applications and interviews. The results provide a basis for further investigation of the individuals involved and their apparently unprofessional and criminal activities. They also ensure that such aberrations in national policy and individual behaviour are chronicled and prevented from happening again. In this regard, there may also be lessons for the international community.

## ■ METHODOLOGY

- 5 The Commission's exploration of the South African Defence Force (SADF) chemical and biological warfare programme began in 1996 with a top secret briefing by Mr Mike Kennedy of the National Intelligence Agency (NIA) and the surgeon general, Dr DP Knobel, to a select group of Commission officials who had received security clearance from the NIA. The gist of the briefing was that although South Africa had had a CBW capability in the past, it had been defensive in nature and had subsequently been dismantled.
- 6 After this briefing, the Research Department began to look at the background to the programme and its implications, relying on the information that was available. This included press clippings, a few intelligence reports and some information gathered by Mr Claus De Jonge who was asked to look at the programme in Europe. The Research Department then drew up a list of anti-apartheid activists who had been the target of poisonings or suspected poisonings (for example, the attempted assassination of the Reverend Frank Chikane in 1989). This led the Commission to conclude that toxins may have been used by the security forces in their war against the 'total onslaught', a conclusion later corroborated by former operatives of the SADF.

- 7 The arrest of Dr Basson and the seizure of four trunks containing documents related to *Project Coast* in January 1997 provided the Commission with proof that there was more to the programme than had initially met the eye. The Commission was one of four interested groups with access to the trunks, the other three being the Office for Serious Economic Offences, the Gauteng Attorney-General's Special Investigation Team and the NIA. An agreement was struck between the parties that the Commission would have unhindered access to the information in the trunks.
- 8 In 1997, the Commission decided to call the project officer, Dr Basson, for a section 29 *in camera* hearing, in an attempt to glean more information about the programme and its relation to human rights abuses. Before the *subpoena* could be enforced, the Commission was approached by the Attorney-General and the NIA. The Commission was persuaded that enforcing the *subpoena* could be detrimental to the case that the Attorney-General was building against Dr Basson, and that it could jeopardise state security. The Commission was requested to hold a meeting with the Deputy President, which would be organised by the NIA, to discuss these matters. The Commission agreed and Dr Basson was informed that he would not be required to appear before an investigative hearing at that stage.
- 9 A series of meetings between the Commission and the NIA took place but no meeting with the Deputy President was forthcoming. The Commission issued a second *subpoena* to Dr Basson in February 1997. Again, the NIA intervened and the Commission agreed not to enforce the *subpoena* until it had consulted with the necessary parties.
- 10 By August 1997, two related amnesty applications had been identified. The Commission could no longer postpone its investigation into the CBW programme. It had become clear that investigating only the two amnesty applications and not the operations of the programme in general would represent a neglect of the Commission's duty to uncover the truth.
- 11 It was therefore agreed that an in-depth investigation would be conducted, starting in February 1998. At that stage there were only four months remaining before the Commission would have to conclude all its investigative work.
- 12 Discussions with the office of the Attorney-General again revealed a concern that the Commission's investigation would have a negative impact on its prosecution of Dr Basson. It was clear that an overlap between the two investigations could not be avoided. The group of scientists with information about the programme

was small and the amount of information available consequently limited. Although the Commission assured the Attorney-General on a number of occasions that it did not intend to damage his case in any way, progress was slow and at no stage was information shared between the two offices. The NIA continued to share the concerns of the Attorney-General and had additional concerns that it believed to be even more serious. This made for a slow and painful beginning to the investigation, requiring more negotiation than investigation.

- 13 The Office for Serious Economic Offences was, however, very helpful. Although it expressed doubts about the Commission's ability to complete an investigation of such magnitude in so short a period of time, it provided enough information and assistance to guide the Commission in the right direction. Access to documents from the trunks also proved vital to the Commission's case.
- 14 The first real investigative steps involved setting up a number interviews with a wide range of people. In order to make a start, a core group of important individuals was identified. During a series of debriefings with this group and an examination of the vast and confusing evidence that was being gathered, the true complexity of the programme began to emerge. It was soon realised that the limited scientific knowledge available in the Commission was simply not sufficient to help it understand the implications of the research documents from Roodeplaat Research Laboratories and Delta G Scientific. It also became clear that the focus of the investigations would have to be restricted considerably, since time was at a premium and the subject matter was vast.
- 15 Professor Peter Folb, head of the Pharmacology Department at the University of Cape Town, was approached and agreed to provide the Commission with assistance. With his expert help, the Commission was able to decipher the relevant documents and begin to develop a complete picture of the bizarre type of science that was conducted by these military front companies.
- 16 A computer database of all documents relevant to the investigation was developed and the Commission continued to conduct interviews with scientists and others involved in the programme. It was clear that the hearing (planned for 8 to 12 June 1998) would not be able to touch on all aspects of the investigation. It was decided, therefore, in discussion with the legal officer of the Commission and the commissioners, that the focus of the hearing should be further limited. The potential witness list was also re-examined and a final, shortened list decided upon.

17 Two weeks before the hearing was due to take place, government, in the person of the Deputy Minister of Defence, requested a meeting with the Commission to discuss the sensitivity of the hearing. A series of meetings with high level government representatives, including the offices of the President, the Deputy President, the Minister of Defence, the NIA and the South African Council for the Non-Proliferation of Weapons of Mass Destruction ensued. It became clear that there were two reasons for the government's concern about a public hearing. First, that it could violate international obligations in relation to the international proliferation of chemical and biological weapons; and second, that it could jeopardise international relations with countries which may have assisted the programme but with whom South Africa continues to have diplomatic relations. This culminated in a representation by government that the hearing be held *in camera*, a suggestion that was declined. However, provision was made for the presence of a legal representative on behalf of government to ensure that no information was released that could lead to proliferation.

## ■ RESULTS OF THE INVESTIGATION

### Individual poisonings

18 The discovery of a document which has become known as the '*Verkoep lys*' (sales list) and a list of SADF sponsored ('hard') projects conducted at Roodeplaat Research Laboratories provided the Commission with a clear indication that there was an intent to poison individuals, and that the front company, Roodeplaat Research Laboratories, was involved in the development of the toxins used for this purpose. The list, found amongst the documents seized at the time of Dr Basson's arrest, was authored by Dr André Immelman, head researcher on SADF projects at Roodeplaat Research Laboratories. Dr Immelman provided the Commission with an *affidavit* that confirms that he authored the list at a time when he had been required, at Dr Basson's request, to provide a group of individuals with the toxins. The items on the list include anthrax in cigarettes, botulinum in milk and paraoxon in whiskey — in the Commission's view clearly murder weapons. This was, indeed, conceded by witnesses at the hearing and Dr Knobel went so far as to say that, in his view, such a list could not form part of a legitimate defensive programme. The inclusion of a baboon foetus on the list, dated late July 1989 (just prior to such a foetus being found in the garden of Archbishop Tutu's house), as well as a reference to chemical and biological operatives, indicated that the items may well have found their way, directly or indirectly, into the hands of operatives of the Civil Co-operation Bureau (CCB).

19 Discussions with members of the CCB indicated that operatives were not necessarily aware of the existence of a CBW programme. They were, however, aware of the capacity of the SADF doctors to provide them with toxins. This was corroborated by a member of the Directorate of Covert Collection who explained to investigators that there was an understanding in their unit that they could get toxins from Dr Basson.

## Street drugs

20 Documents seized at the time of Dr Basson's arrest indicated that the front company, Delta G Scientific, was involved in the manufacture of significant quantities of methaqualone (mandrax) and ecstasy, and was also involved in researching the possibility of using street drugs for crowd control purposes. This was corroborated at the hearing.

21 It was also established that approximately 1 000kg of ecstasy was manufactured in 1992 and was, in all likelihood, encapsulated by Medchem Pharmaceuticals, a subsidiary of the holding company Medchem Consolidated Investments, under which Delta G Scientific also fell. The production manager at Delta G Scientific informed investigators that he had been approached in 1988 by the managing director of the company, Dr Philip Mijburgh, and asked to produce 1 000kg of methaqualone. It is not certain whether this was also encapsulated, but it seems likely. The explanation given by witnesses was that the intention was to use it for crowd control purposes. General Lothar Neethling told the Commission during the hearing that, on three occasions, he had been requested to provide Dr Basson with mandrax tablets confiscated by the South African Narcotics Bureau (SANAB). He claimed that he had given Dr Basson approximately 200 000 tablets in total as well as quantities of LSD and dagga, on the understanding that they would be investigated to determine whether they would be appropriate crowd control weapons. None of the witnesses could provide the Commission with any information about tests that had been conducted in this regard and at least one witness stated that these drugs would not be suitable for such a purpose.

22 In August 1988, Delta G Scientific began producing 1 000kg of methaqualone. From the documentation provided by Dr Knobel, it seems that tests were carried out on methaqualone as an incapacitant in 1988, and that it was established that it was not effective since it did not take effect immediately. As a result, work on methaqualone stopped at the end of 1988 but work on methaqualone analogues continued. What happened to the 1 000 kg of methaqualone has still not been established. Moreover, at the end of 1991, the Co-ordinating Management

Committee of *Project Coast* saw fit to send Dr Basson to Croatia to close a deal with renegade Croatians (including high-ranking government officials) for the purchase of 500kg of methaqualone, which was brought back to South Africa.

- 23 A year later, this was allegedly destroyed after an order that work on all incapacitants should cease. The deal in Croatia was in itself extremely questionable, leading to a loss of millions of rands. Dr Basson intercepted Vatican bearer bonds to the value of \$40 million that had been intended for the purchase of weapons by the Croatian government, leading to his arrest in Switzerland. Why the military was importing such large quantities of methaqualone at such high cost at this late stage of negotiations is not clear and was not adequately answered by Dr Knobel or Dr Basson. The documents also cast doubt on whether these substances were in fact destroyed on 27 January 1993, as alleged.
- 24 Investigations could not trace the drugs produced at Delta G directly to the street. However, Dr Basson was arrested with quantities of ecstasy and mandrax tablets in his possession, and the Steyn report indicates that Dr Basson allegedly offered an operative mandrax tablets in return for an operation. The Commission has a strong suspicion that drugs obtained during the course of this programme may well have found their way onto the streets.

### **Mozambican incident**

- 25 In January 1992, FRELIMO troops conducted an operation near the South African border. During the course of the operation, they were allegedly exposed to what was thought to have been a chemical agent. Some of the soldiers died during the incident and others required hospitalisation.
- 26 A submission by General Pierre Steyn stated that an attack was launched from Komatipoort by South Africans as a training exercise. Investigators were unable to determine the accuracy of this information as use of the Komatipoort airstrip is not regulated.
- 27 After the incident, a series of investigations were conducted by scientific teams from South Africa, Mozambique, Switzerland, Sweden, and the United Kingdom. The reports were inconclusive. The only report that expressed a belief that the troops had been exposed to a chemical agent was that of the British scientist. A United Nations investigation was launched and was also unable to come to any firm conclusions.

28 Dr Brian Davy, who had been the head of the South African investigating team, spoke to Professor Peter Folb during the course of the Commission investigation and was unable to provide any further information. Attempts to meet with the British scientist failed. Attempts were also made to access the medical records of the soldiers involved. However, the Mozambican authorities failed to respond to Commission's requests for information. Investigators met with Dr Staub, a member of both the Swiss and the United Nations investigating team. He told them that he believed that the troops had suffered dehydration and had not been the victims of a chemical attack. This explanation struck the Commission's investigation unit as unlikely.

29 Investigators also met with Dr Vernon Joynt of Mechem, which could have manufactured the carrier for such a weapon. This interview did not provide any new information of significance.

30 Unfortunately, the matter remains unresolved.

## **International links and support**

31 Documents in the Commission's possession indicate that Dr Basson travelled extensively to collect information during the initial phase of the CBW programme. He visited Taiwan where he was shown their CBW facilities and provided with significant information, and also attended a conference at San Antonio in the United States in the early 1980s. Documents indicate that, during the apartheid years, members of the SADF visited Israel and West Germany to share information about CBW matters and there was clearly a link with Belgian nationals and companies. Other documents reveal links between the surgeon general and Americans who were part of the United States CBW programme, and demonstrate their willingness to assist the South Africans.

32 Dr Basson and other members of the programme travelled extensively. Their links with sanctions busters and other people prepared to assist the South African CBW programme, both officially and unofficially, cannot be doubted. Dr Basson's trips to Croatia during the 1992/3 period indicate that he had a number of contacts throughout the world who could provide assistance in one way or another.

33 By the end of 1993, the United States and British governments approached the South African government to express concern about the programme. The motives for the meetings between these two governments and the South Africans are

unclear. At the hearing, both Dr Basson and Dr Knobel alleged that the British and Americans had informed them that they did not want the programme to fall into the hands of the ANC government after the election in April 1994. Dr Basson visited the US in 1981 and Dr Knobel had contact with scientists who were part of the American CBW programme much later; the existence of a South African programme was no secret to the Americans or the British. A further indication of such a relationship is a visit by Dr Brian Davey, a medical doctor and former member of the South African Medical Services (SAMS), to Porton Down in 1992, after the alleged attack on Mozambican forces (see above).

- 34 The role of foreign governments in supporting the South African programme is not yet clear. It cannot however be doubted that, without some level of foreign assistance, this programme would not have been possible.

## ■ FINANCIAL MISMANAGEMENT

- 35 There is evidence of large-scale fraud and mismanagement of funds of the CBW programme, which is the subject of an extensive investigation by the Office for Serious Economic Offences (OSEO). The Attorney-General provided the Commission with an interim charge sheet that reveals an intention to charge Dr Basson with fraud amounting to R50 million. Because fraud and theft of funds do not form part of the Commission's mandate, and because this is the subject of an investigation by the OSEO, the Commission did not extensively investigate this aspect. It did, however, become clear in the course of our investigations and through evidence given at the hearing that the programme was fraught with financial irregularities.

## ■ INSTITUTIONAL AND STRUCTURAL ASPECTS OF THE CBW PROGRAMME

### Military

- 36 A management committee (beheerkomitee) was established to oversee the management of the CBW programme. It included the chief of the SADF, chief of staff finances, head of counter-intelligence, chief of staff intelligence, the surgeon-general and the project officer (Dr Basson). The management committee had three working groups: a technical working group, a security group and a group responsible for administration and finances. According to documents provided by Dr Knobel (which include a number of minutes from the meetings of this

committee), once the front companies were established and running, the committee met once a year to approve the project's budget and as needed in the case of emergencies.

- 37 The surgeon general acted as project leader, a role that is unclear at this stage. Dr Basson was project officer and apparently reported both to the surgeon general and the head of Special Forces, and variously to the Minister of Defence, chief of the SADF, Minister of Police, commissioner of police and the chief of staff intelligence.
- 38 Front companies were established to do the work of the programme, with the SADF as the main client. They were also provided with covert funding from the SAMS budget during the earlier period of the programme.
- 39 No one at the hearing was prepared to take direct responsibility for the programme and responsibility has been passed both up and down. It is the Commission's view that, while Dr Basson was clearly a central figure, several of the people involved in the *beheerkomitee* cannot deny responsibility. Unfortunately, the exact responsibility for the programme could not be determined.

## ■ ANALYSIS

- 40 The CBW programme in the 1980s and early 1990s was ostensibly established for the purpose of providing the country with a defensive capability. By this it was understood that there should be the necessary expertise to understand and to be able to react to chemical and biological threats posed from outside the country's borders. South Africa should also have the capacity to launch retaliatory attacks in the event of CBW agents being used against South Africa's own forces.
- 41 It was explicitly and repeatedly stated that the intention was not, and never had been, to develop an offensive capacity. Such intent would have been evidenced by large-scale production at factory level, the manufacture of missiles capable of dispersing chemical and biological substances amongst enemy troops ('weaponisation') and the training of troops in their use. There would also have been at least limited evidence of the use of such agents in warfare.
- 42 The exception to this was the express intention of the military to develop crowd control agents. These included standard agents for the purposes of self-sufficiency and novel agents developed through the adaptation of chemicals already in existence. There is also invariably some overlap between defensive and offensive

programmes. Although never explained in precise terms, this may be the reason for surplus production volumes.

- 43 In strict military terms, such a defensive programme would need to be managed in accordance with each of a number of criteria. These would include careful compliance with the criteria of defensive capability, sound and disciplined leadership, careful auditing of financial dealings, compliance with international conventions determining the conduct of such military business and reliable and comprehensive systems of accountability. The Commission's hearings showed that the programme failed to meet each and every one of these criteria. In fact, there was consistent evidence of serious departures from these standards.
- 44 Despite the fact that the South African CBW programme during the period under review has now been exposed as showing gross aberrations of intent, discipline, actions, command structures, financial dealings and professional relationships, it was highly regarded within the military, which considered it a successful programme. The military command maintained that *cognoscenti* in the international military community shared this opinion. One of the astonishing aspects that emerged in the hearings was that the professionalism, competence and mystique of the programme were stripped away by the evidence of the very people who participated in it. The hearings revealed a nepotistic, self-serving and self-enriching group of people, misled by those who had a technical grasp of what was happening. They conducted work they deemed to be scientific, but which was underpinned by ideas, suggestions and hypotheses that were bizarre and incompetent.
- 45 Dr Basson's evidence was not fully tested at the hearings because of the legal objections he raised with regard to his forthcoming criminal trial. Initially, Dr Basson's legal representatives indicated that they wished to bring a legal challenge to prevent their client from testifying at the hearing. The panel presiding over the hearing ruled, however, that Dr Basson was compelled to testify. This decision was challenged in the Cape High Court. The court upheld the panel's ruling and ordered Dr Basson to testify before the Commission on 29 July 1998, a mere three days before the mandate to hold human rights violations hearings expired.
- 46 On 29 July 1998, Dr Basson appeared before the Commission without his Pretoria-based legal representatives and asked that the hearing be postponed until they were available. Ultimately, Dr Basson's evidence was only heard on 31 July. Much of the time was spent on legal argument, and the extent of questioning was curtailed.

47 Although Dr Basson gave evidence for almost twelve hours, the Commission would have preferred to have had an opportunity to question him more thoroughly. In the event, many questions were left unanswered.

48 Dr Immelman, who served as director of the scientific research programme at Roodeplaat Research Laboratories during its existence as a front company for the conduct of the CBW programme, submitted an *affidavit*. A thorough testing of his evidence must now await his cross-examination in court. It is clear from Dr Immelman's *affidavit* that he was directly responsible for the production of items on the '*Verkope lys*'; that he dealt directly with operatives, and that he is accountable for the scientific content of the Roodeplaat Research Laboratories programme in the years in which he held office — in the mid- and late 1980s and the early 1990s. In addition to the obvious issues of professional culpability, negligence and criminal intent that apply to others as well, it has to be said specifically of Dr Immelman that he allegedly had full knowledge of the activities at the laboratories that were under his control.

49 Inevitably, the CBW programme achieved little of value or of common good. Enveloped as it was by secrecy, threats and fear, opportunism, financial mismanagement, incompetence, self-aggrandisement, together with a breakdown in the normal methods of scientific discourse, the results were paltry. Tens, even hundreds, of millions of rands were squandered on ideas that had no scientific validity. At best, the programme succeeded in producing for manufacture analogues of CR and BZ incapacitants, and in making local arrangements for protective clothing for troops against mass chemical and biological attack. At worst, the programme had criminal intent.

## ■ FINDINGS

### THE COMMISSION FINDS THAT:

- SCIENTISTS WERE RECRUITED TO THE CBW PROGRAMME FROM UNIVERSITIES AND RESEARCH INSTITUTIONS IN SOUTH AFRICA BECAUSE OF THEIR 'PATRIOTISM' AND LOYALTY TO THE GOVERNMENT OF THE DAY. THEY WERE LURED BY GENEROUS CONDITIONS OF SERVICE, FACILITIES, WORKING ARRANGEMENTS AND PAY PACKAGES.
- WORK WAS CONDUCTED ON A 'NEED TO KNOW' BASIS, SUBVERTING THE VERY PURPOSE OF SCIENCE. THE FREE DISCOURSE OF INFORMATION AND IDEAS THAT CHARACTERISES SCIENTIFIC ENDEAVOUR WAS SUBVERTED. MOREOVER, THOSE WHO WERE APPOINTED WERE INTIMIDATED AND THREATENED, EVEN WITH THEIR LIVES, IF THEY STEPPED OUT OF LINE.

- OVERALL UNDERSTANDING OF THE PROGRAMME, AND ITS CO-ORDINATION AND DIRECTION, WERE VESTED IN THE HANDS OF ONE PERSON, DR BASSON, WHOSE ABILITY AND (IT IS ASSUMED) INTEGRITY WERE UNQUESTIONED BOTH BY THOSE WHO SERVED UNDER HIM AND BY THOSE TO WHOM HE HAD TO REPORT. IT EMERGED IN THE HEARINGS THAT THE MILITARY COMMAND WAS DEPENDENT ON DR BASSON FOR THE CONDUCT AND COMMAND OF THE PROGRAMME, EVEN AT A TIME WHEN THERE WERE SUFFICIENT INDICATIONS THAT DR BASSON MIGHT NOT BE TRUSTWORTHY AND THAT THERE WERE SERIOUS ABERRATIONS IN WHAT WAS HAPPENING.
- THE MILITARY COMMAND, AND PRE-EMINENTLY THE SURGEON GENERAL, DR DP KNOBEL, WERE GROSSLY NEGIGLIENT IN APPROVING PROGRAMMES AND ALLOCATING LARGE SUMS OF MONEY FOR ACTIVITIES OF WHICH THEY HAD NO UNDERSTANDING, AND WHICH THEY MADE NO EFFORT TO UNDERSTAND.
- THE CBW PROGRAMME MADE THE SELF-ENRICHMENT OF INDIVIDUALS POSSIBLE AND OPENED THE WAY FOR A CYNICAL SUBVERSION OF ITS OSTENSIBLE AIMS IN THE PRODUCTION OF MURDER WEAPONS FOR USE AGAINST INDIVIDUALS.
- A EXTREMELY COMPLICATED ARRANGEMENT OF FRONT COMPANIES SUPPORTED THE PROGRAMME, A PART OF WHOSE INTENTION WAS A PLAN FOR ITS OWN ULTIMATE PRIVATISATION. THIS, IT APPEARS, WAS INTENDED FROM THE START.
- THE DEVELOPMENT OF THE PROGRAMME WOULD NOT HAVE BEEN POSSIBLE WITHOUT SOME LEVEL OF INTERNATIONAL CO-OPERATION AND SUPPORT.

#### THE ROLE OF THE MANAGEMENT COMMITTEE

- THE CBW PROGRAMME, AND IN PARTICULAR ITS GROSS ABERRATIONS, WOULD NOT HAVE SUCCEEDED WITHOUT THE SUPPORT, ACTIVE AND TACIT, OF THE CO-ORDINATING MANAGEMENT COMMITTEE OVER THE PERIOD 1988 TO 1995.
- THE COMMITTEE KNEW OF THE LARGE-SCALE PRODUCTION OF MANDRAX AND ECSTASY AND THEIR PURPORTED USE, BUT DID NOT SEEK TO ESTABLISH REASONS FOR THIS. IT APPROVED OF THE IDEA AND LENT ITS SUPPORT DIRECTLY. THE IDEA OF USING EITHER MANDRAX OR ECSTASY FOR THE PURPOSE OF CROWD CONTROL CONTRAVENES INTERNATIONAL CODES. IN ADDITION, THERE WAS NO SCIENTIFIC BASIS FOR THINKING THAT IT WOULD BE AN APPROPRIATE, SAFE OR SENSIBLE FORM OF CROWD CONTROL.
- THE COMMITTEE WAS AWARE OF AND AUTHORISED BASSON'S TRIPS TO CROATIA, AT GREAT EXPENSE, TO PURCHASE 500KG OF METHAQUALONE AS LATE AS 1992, AND ASSISTED BASSON WHEN HE WAS ARRESTED IN SWITZERLAND IN POSSESSION OF FRAUDULENT BEARER BONDS.

#### THE SURGEON GENERAL IN PARTICULAR:

- KNEW OF THE PRODUCTION OF MURDER WEAPONS BUT REFUSED TO ADDRESS THE CONCERNs THAT WERE RAISED WITH HIM, ON THE GROUNDS THAT THEY DID NOT FALL UNDER HIS AUTHORITY. HE WAS NEVERTHELESS FULLY AWARE THAT THESE ACTIVITIES HAPPENED IN FACILITIES UNDER HIS DIRECT CONTROL AND WERE PERPETRATED BY STAFF UNDER HIS CHAIN OF COMMAND.

- DID NOT UNDERSTAND, BY HIS OWN ADMISSION, THE MEDICAL, CHEMICAL AND TECHNICAL ASPECTS AND IMPLICATIONS OF A PROGRAMME THAT COST TENS, IF NOT HUNDREDS OF MILLIONS OF RANDS.
- MADE NO EFFORT TO COME TO GRIPS WITH THESE TECHNICAL AND MEDICAL ISSUES, NOTWITHSTANDING THE FACT THAT HE WAS THE HIGHEST-RANKING MEDICAL PROFESSIONAL IN THE MILITARY AND THAT OTHERS IN THE MILITARY WERE WHOLLY DEPENDENT ON HIS JUDGEMENT AND DISCRETION.
- ADVISED THE MINISTER OF DEFENCE, ON 7 JANUARY 1993, THAT SOUTH AFRICA SHOULD CONCEAL FROM THE CHEMICAL WEAPONS CONVENTION THAT THE COUNTRY POSSESSED NGT (A NEW GENERATION OF TEAR GAS RELATED CLOSELY TO CR), RECOMMENDING THAT SOUTH AFRICA SHOULD PROCEED WITH THE RESEARCH AND DEVELOPMENT OF NGT IN A COVERT MANNER WHILE AT THE SAME TIME CONCEALING IT.
- APPROVED THE BUDGET FOR PROJECTS (IN SOME CASES ALONE, AND IN OTHERS IN CONJUNCTION WITH HIS FELLOW OFFICERS ON THE MANAGEMENT COMMITTEE, WITH OR WITHOUT THE FULL UNDERSTANDING OF WHAT HE WAS DOING) THAT HAD AS THEIR PURPOSE THE MURDER OF INDIVIDUALS, AND THE UNDERMINING OF THE HEALTH, IF NOT THE ELIMINATION, OF ENTIRE COMMUNITIES (FOR EXAMPLE, PROJECTS INVOLVING CHOLERA, FERTILITY DRUGS, BOTULINUM, MANDRAX AND ECSTASY).
- AGREED TO THE DESTRUCTION OF DOCUMENTS DESCRIBING THE ACTIVITIES AND THE FINANCIAL ASPECTS OF THESE PROGRAMMES. INSTEAD, HE SHOULD HAVE ENSURED THAT THE DETAILS OF THE PROGRAMME WERE RECORDED AND ACCESSIBLE, WHILE LIMITING THEIR ACCESSIBILITY TO AUTHORISED PERSONS. THIS WOULD HAVE SAFEGUARDED THE MASSIVE INVESTMENT, BOTH FINANCIAL AND IN TERMS OF SCIENTIFIC ACHIEVEMENT, WHILE, ON THE OTHER HAND, GUARDING AGAINST USE OF THE INFORMATION FOR PURPOSES OF PROLIFERATION OR CRIMINAL ACTIVITIES.

# Special Investigation into Secret State Funding

## ■ INTRODUCTION

- 1 The use of secret funding to promote the policies of the former state and to fund operations directed against the opponents of apartheid came to the attention of the Commission shortly after its inception. A copy of the reports of the Advisory Committee on Special Secret Projects, chaired by Professor Ellison Kahn, as well as the report of the Secret Services Evaluation Committee, chaired by Mr Amie Venter, were received from the President's office on 16 October 1996.
- 2 Former President FW de Klerk provided the Commission with a briefing document giving a background to his investigations into covert activities and funding. He also made available the report of the Ministers' Committee on Special Projects, chaired by the former Minister of Justice, Mr HJ (Kobie) Coetsee.
- 3 Members of the Commission subsequently met with the senior staff of the office of the Auditor-General and requested that the Auditor-General, Mr Henri Kluever, assist the Commission in obtaining an understanding of the nature and extent of covert accounts conducted by the former government. The Commission has not received information on the specific nature of the activities undertaken by the recipients of covert funding, nor did it investigate the actual use made of the funding. It is, however, clear that there were funds in secret bank accounts at the time of the Kahn Committee. Furthermore, the Auditor-General reported that a total of more than R2.75 billion was expended through the Secret Services Account between 1978 and 1994. This does not, however, constitute the full amount spent by state departments on secret and other sensitive projects. As is clear in the Auditor-General's report, a vast number of projects would not have been formally registered as secret projects but were undertaken within departmental line functions. The Special Defence Account, for example, was used to fund 'sensitive line function projects' and the Department of Foreign Affairs funded projects designed to counter sanctions and other activities – as reported later in this chapter.

- 4 The need clearly exists for the President to appoint an appropriate committee to enquire further into covert funding – not least with a view to ensuring that, where possible, funds in covert accounts were paid back to the treasury. Where such funding continues to be absolutely necessary, clear guidelines need to be put in place and the nature and extent of such funding reported to Parliament on a regular basis. This requires an evaluation of existing structures and regulations governing the use of secret funds.

## ■ OVERVIEW OF STATE SECRET PROJECTS

- 5 An overview is provided below of certain projects undertaken by the South African Defence Force (SADF), South African Police (SAP), National Intelligence Service (NIS), Department of Foreign Affairs and Department of National Education, as presented to the Kahn Committee, the Ministers' Committee on Special Projects and the Secret Services Evaluation Committee<sup>1</sup>.
- 6 Most projects appear to be related to the establishment of front organisations or actions aimed at counteracting the activities of the African National Congress (ANC) and its allies, primarily in the sphere of information, communication, dis-information, propaganda and counter-propaganda. Other projects were aimed at circumventing sanctions.
- 7 This is not a comprehensive list but aims to provide insight into the nature of some projects. The following constraints should be noted.
  - The mandate of the Kahn Committee apparently required the committee only to consider those projects placed before it by relevant departments.
  - Evidence suggests that not all existing projects were brought before the committee. It seems that some projects that were already being terminated were not referred to the committee.
  - As indicated earlier, a vast number of projects were not formally registered as secret projects but were undertaken within departmental line functions.

### **South African Defence Force (SADF)**

- 8 The SADF secret projects covered a range of activities such as publications, front organisations, and support to surrogate groups. Publications included

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<sup>1</sup> Information and quotations provided in what follows originates directly from the reports of these committees.

*Special Despatch (Project Olive), the Aida Parker Newsletter (Project Villa Marie), Christians for Truth (Project Camara) and Stand To (Project Mediant), as well as a printing press and publications in Botswana such as News Links Africa (Project Parker).*

- 9 Secret projects concerned with contra-mobilisation included the establishment and support of conservative or 'moderate' organisations such as the Federal Independent Democratic Alliance (FIDA), known as *Project Capital*. FIDA had a head office in Johannesburg and thirteen regional bases, and is described in the report as "a moderate alliance of black organisations to combat violence and advance stability" that was "a very valuable source of information to the Defence Force on violence in black townships". Similarly, *Project Napper* covered the Eagles youth clubs, "another valuable source of information on violence in black townships", active in the Orange Free State, northern and western Cape, Vaal Triangle and southern Transvaal.
- 10 Other organisations include *Vroue vir Suid Afrika* (Women for South Africa – *Project Leafy*), *Jeugkrag* (Youth Power – *Project Essay*), the use of consultants in covert front organisations such as the South African Christian Cultural Organisation (SACCO), the Eastern Cape Sports Foundation, the Lion Life Research Corporation (*Project Jetty*), Veterans for Victory (*Project Mediant*), Family Focus, and the Western Cape Council of Churches (*Project Camara*).
- 11 Two of the more costly projects were *Pacman* and *Byronic*. Pacman was the code name for the International Freedom Foundation, which had offices in Johannesburg, Washington, London, Brussels and Bonn. Its objectives were described as the combating of sanctions and support to constitutional initiatives through publications, lobbying, conferences etc. It specifically supported Mr Jonas Savimbi and UNITA. Leading personalities in government circles in Europe and the USA were involved, with half of its funds coming from abroad. Pacman's annual budget for 1991/92 was listed as over R10 million. In late September 1991, the Minister of Finance agreed to a one-off payment of R7 million, approved by Minister of Defence, "to enable the country to withdraw from the enterprise". This payment was vested in a trust controlled by trustees appointed by SADF.
- 12 *Project Byronic* related to an international programme in favour of UNITA. Contracts concerning leading political and governmental figures were scheduled to continue until the September 1992 elections in Angola. In late September, the Minister of Finance approved a payment of R7 million into a trust similar to that of Pacman, to end South Africa's association with the enterprise. The project also involved

the transport of goods to UNITA in Angola. A sub-project included the setting up and running of a commercial flight rental company, mainly to support UNITA, which was then to be closed with a R7 million payment to UNITA. The expenditure for the 1991/92 financial year was approximately R108.4 million, with a projected budget of R98 million for 1992/93.

- 13 *Projects Rooibos and Hardekool* provided "theological training for the independent churches ... with the object of inculcating a moderate religious conviction in support of current constitutional initiatives".
- 14 Other projects mentioned to the Kahn Committee in name only included Gezina, Liberal, Mapoly, Scottish, Choke, Brussels, Eikenhof, Concert, Boesman, Kerwer, Instigator and Steenbras.
- 15 *Project Marion* was not put before the Kahn Committee. It was reported to the Ministers' Committee on Special Projects in October 1992 as a project designed "to put Inkatha in a position to neutralise the assault by MK<sup>2</sup> against it" but having its mandate modified on 1 March 1990 "to maintain links with Chief Minister Buthelezi". It was reported that initial training took place in 1986 with sporadic contact and retraining until June 1989. Thereafter, Marion was meant only for financing travel costs and '*inligtingskakeling*' (intelligence links) until March 1991. The books for the period until November 1991 in the 1991/92 financial year reflect only travel expenses for two security briefings of Chief Buthelezi by SADF members. Elsewhere in the report of the Commission, *Project Marion* is shown to have contributed directly to the perpetration of gross human rights violations.
- 16 Other projects not disclosed to the Kahn Committee but raised with the Ministers' Committee on Special Projects in October 1992 include *Project Ogden*, *Project Friendship* (which established and funded a Directorate of Covert Collection front company, Longreach, to influence business people locally and overseas by means of a newsletter) and *Project Liberal* (the Quo Data research organisation which promoted Communications Operations (COMOPS) goals with certain media agents in Europe), all of which were being terminated in accordance with the State President's guidelines (see below).

## **Department of Foreign Affairs**

- 17 The key goals of the secret projects appear to have been related to the collection of information (such as *Toegang tot Afrika* – Entrance to Africa), building a positive

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<sup>2</sup> Umkhonto weSizwe, the armed wing of the ANC.

image of South Africa, and sanctions busting (such as projects *Blue*, *Arcadia*, *Grail*, *Sixpack*, and *Opals*).

- 18 *Project Blue* established a financial trust, the *Taussig Familienstiftung* (Taussig Family Trust) registered in Liechtenstein, which acted as a conduit for secret transactions and through which secret projects could be managed. It guaranteed payment of debts owed by projects *Grail* and *Arcadia*. Transfers included R3 336 891.40 to Rothschilds Bank in November 1985, and R11.4 million to an unknown recipient through Credit Suisse Geneva in February 1986. Taussig guarantees issued to the Liechtenstein bank include one for 1,2 million pounds sterling for the purchase of major equipment for *Grail*, and another for 1,5 million pounds sterling plus interest regarding certain shares in Finlan Group PLC. The assets of the trust were estimated at around R20 million.
- 19 *Project Grail* was a sanctions-busting operation and was the code name of a large company in the United Kingdom, started around 1977 with help from Rothschilds Bank. It involved the buying and selling of computer equipment and the provision of equipment and services for disaster recovery of computer back-ups. "The true identity of the company is hidden by layers of trusts and holding companies, starting with a Jersey trust based on a deceased family trust, thereafter a holding company in Jersey, thereafter a holding company in the UK. South African associations are buried deep."
- 20 *Project Thurston* involved obtaining television material for the SABC via United Studios, Cablelink, Satlink, Filmtel and MGI/IMGC.
- 21 Front organisations and public relations companies organised visits to South Africa by prominent leading European personalities and United States business people and Congress leaders through projects such as *Acoda* and *Swart Sakelui* (Black Business People).
- 22 Individuals were paid to establish relationships and information flow, particularly in Africa. Mr John Coker, a British Broadcasting Corporation (BBC) journalist and specialist on Africa with connections to the Organisation of African Unity (OAU) was employed at an annual fee of R125 000 plus airfares to act as a source of information and convey information on South Africa's behalf. A similar arrangement existed with a French businessperson, Mr Jean Yves Ollivier, employed to advance South Africa's interests in francophone Africa.

23 *Project Swaziland* is described as follows. "Young King Mswati III took it for granted that, like his father, he would be furnished with the part-time services of an attorney at the expense of the South African government." Pretoria lawyer Mr Ernst Penzhorn was employed at an annual fee of around R50 000 to "advise the King generally, accompany him to conferences, draft speeches for him, persuade him not to act in undesirable ways, and protect him from the machinations of undesirable characters".

24 R100 000 per annum was paid for several years to the South African Traditional Healers' Council whose leading figures were allegedly "held in high esteem in many African countries for the independent advice they give" and whose connections brought valuable information.

## **South African Police**

25 The SAP initiated certain special secret projects from November 1985, as directed by the SSC on 16 November 1985. From that year, *Project Aristotle* ran the National Students' Federation, which was financed through a business trust until press disclosures led to its dissolution, with compensation paid to two agents who suffered losses resulting from their exposure as agents. *Project Einstein* ran a similar programme in the black tertiary education sector.

26 *Project Romulus* was aimed at combating organisations and individuals, mainly among the youth in the Eastern Cape and Western Transvaal, who disrupted public order through intimidation and violence. It encompassed several sub-projects, one of which was the youth project *Operation Gordian*, which had offices in Port Elizabeth and Durban and cost a total of R222 820. Further sub-projects included *Operation Voltaire*, *Operation Ukumelana* (to oppose), and the Alliance for Free South Africans.

27 Further SAP projects include:

28 *Project Bismarck*, dating back to around 1985, which was a cover for operational activities and the canalisation of state funds to fronts, and provided a cover legend to SAP members involved in STRATCOM projects.

29 *Project Polemos* was "a front to combat radical propaganda in the Eastern Cape".

30 *Project Cicero* aimed "to undermine the power base of radical youth organisations".

31 *Project Buye* (Returned) aimed "to show members of Umkhonto weSizwe who have returned from overseas that violent actions to reach political goals are not acceptable".

## National Intelligence Service

32 The STRATCOM projects of the NIS, as reported by the Kahn Committee, relate mainly to projects in the religious sector aimed at bolstering and building a conservative religious approach and to combat liberation theology. These included, for example, *Project Delectus*, to implement former President de Klerk's initiative regarding peace and justice through the creation of a Coalition for Christian Action by means of a network of writers.

## Department of National Education

33 A single secret project undertaken by the Department of National Education concerned the payment of income tax due on fees paid to the visiting English cricket team in the 1989–90 cricket season. After a meeting with the South African Cricket Union, the "Minister of National Education asked the Minister of Finance to cause the payment of the income tax of each of the players to be effected through a fund that had been created from the Secret Services Account for secret projects of the Department of National Education". This required an amount of R535 825.15. It was explained that if the English players were to do this favour for the South African Cricket Union, they should be given the maximum financial reward to help them through the lean years that would follow, since the tour was bound to result in reprisals and losses for the English players.

## ■ THE KAHN COMMITTEE

34 The Kahn Committee, consisting of Professor Ellison Kahn (in the chair), Mr Jan A Crafford, Mr James O McMillan and Mr SA Strauss, was announced by President de Klerk on 30 July 1991. It issued three interim reports and a final report on 19 November 1991. Its mandate was limited: the committee considered only such projects as were brought to its attention by the various state departments that were still operative – with a view to recommending the cancellation of covert activities wherever possible. Where the committee was of the opinion that projects should be allowed to continue, recommendations were to be made for the possible scaling down and, where necessary, adaptation of such projects. The committee

was requested to ensure that projects did not benefit any particular political party or organisation.

- 35 Projects that were not terminated were to serve what was defined as "the national interest". Such activities were said to include the elimination of violence, intimidation, sanctions and international isolation.
- 36 Departments of state in receipt of covert funding were required to furnish the committee with documents setting out the nature of ongoing projects. The committee noted several additional projects that had already been terminated, as well as 'line function' secret projects carried out by the NIS, the SADF, the SAP and the Department of Foreign Affairs, with the recommendation that these be continued. Where termination of projects was recommended, financial obligations (both contractual and moral) to employees were to be honoured in order to avoid grievances that could result in sensitive information being revealed.
- 37 A list of covert projects, together with recommendations on each, was published in the committee's four reports. These included sixteen projects under the direction of the SADF, eleven under the Department of Foreign Affairs, nine under the SAP, seven under the NIS and one under the Department of National Education. The report does not contain any information on gross violations of human rights.
- 38 The Kahn Committee recommended that:
  - certain secret projects that met the criteria stipulated by the then government should be continued;
  - certain projects should be terminated in accordance with a phasing-out process which involved the honouring of both contractual and moral financial obligations to those involved in the projects;
  - departments such as the NIS, the SADF and the SAP needed to continue certain covert activities as a part of their line functions;
  - legislation should be introduced on the management of secret funds.
- 39 In a press statement on 19 September 1991, Mr de Klerk accepted all these recommendations, announcing that all contractual obligations suggested by the committee would be met.

## The Ministers' Committee on Special Projects

40 The Ministers' Committee on Special Projects was established to oversee the implementation of the recommendations of the Kahn Committee, chaired by Mr Kobie Coetsee. The committee monitored the implementation of the Kahn Committee recommendations until the Secret Services Account Amendment Act No 142 of 1992 came into effect on 1 April 1993.

41 The Ministers' Committee recommended that the reports of the Kahn Committee be made available to the Auditor-General for auditing, and established guidelines for exercising ministerial responsibility over secret projects. These included the need for ministers to be individually responsible for secret projects within departmental line functions and for department heads to be accountable for carrying out administrative regulations.

42 The final report of the committee dealt with a number of specific projects and allegations. It further indicated that:

- the recommendations of the Kahn Committee had been implemented;
- the once sensitive matter of secret activities had been brought under control;
- there was no reason for the continued existence of the committee, whose task would be taken over by the proposed Secret Services Evaluation Committee and the establishment of the Transitional Executive Committee of government.

## ■ THE SECRET SERVICES EVALUATION COMMITTEE

43 The Secret Services Evaluation Committee consisted of Ministers Amie Venter (chairperson), DJ de Villiers, DL Keys and Professor SA Strauss, with Advocate MF Ackerman as secretary. It first met on 8 April 1993, in response to the 1992 Secret Services Account Amendment Act. The task of the Evaluation Committee was to –

- evaluate all proposed secret services of all government departments with the exception of the SADF and NIS<sup>3</sup>, with a view to determining whether their objectives and methods were in the national interest; and

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<sup>3</sup> These budgets were regarded as secret. The amounts involved were handled between the Minister of State Expenditure and the ministers responsible for the NIS and SADF.

- undertake an annual review of all secret services of these departments, and determine, in the light of their objectives, whether they should be continued.

- 44 The committee further identified the nature of existing secret projects, establishing the name of each project, its aims, operational area, business details, *modus operandi*, financial details and time frame. It also enquired into the reason why the particular project needed to be of a *covert* nature, and whether its existence was in the national interest.
- 45 Like the Coetsee Committee, the Evaluation Committee recommended the continuation of certain projects, including initiatives undertaken by the SAP relating to the combating of crime. In other instances, it reported on the termination of projects as well as on new projects that the committee judged to be in the national interest.

## ■ THE REPORT OF THE AUDITOR-GENERAL

- 46 The Auditor-General was requested to provide the Commission with a report of the auditing of all secret funds utilised by the previous Government for the period 1960 to 1994. The report indicated that, in accordance with a decision of the Co-ordinating Intelligence Committee, dated 10 February 1994, all documentation on the completed auditing of secret funds had been returned to the departments concerned. This made it necessary for the Auditor-General to gain the co-operation of: the National Department of Defence; the NIS; the Department of Justice; the SAPS; the Department of Foreign Affairs; the South African Secret Service; the Department of State Expenditure; the Department of Arts, Culture, Science and Technology; the Department of Sports and Recreation, and the Department of Education.
- 47 A number of departments indicated that the audit documentation and working papers in question had been disposed of in terms of approved procedures, and that limited information was available.<sup>4</sup> The Departments of Justice and State Expenditure indicated that some documentation was still available. Because the Auditor-General reported on the basis of what information he had at his disposal, he was not able to provide an audit opinion.

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<sup>4</sup> The Auditor-General's report provides a schedule detailing this destruction. See also Volume One of this report, on the destruction of records.

## Funding of secret services

48 Before the establishment of the Foreign Affairs Special Account on 1 April 1967, various departments had been engaged in activities involving 'secrecy' such as the secret classification of documents, intelligence gathering and related matters. As a result of the growing foreign pressure on South Africa and the unstable situation within the country, certain departments, such as the SAP, the National Intelligence Agency (NIA) and the SADF, expressed the need for increased special funding in order to execute certain secret services. To facilitate this, the following special accounts were established via specific statutes:

### Special Defence Account

49 The Defence Special Account Act No 6 of 1974, which came into effect on 6 March 1974, made provision for the establishment of the Special Defence Account. The Act allowed for funds in the account to be used, with the approval of the Minister of Finance, to defray expenditure incurred in connection with special defence activities (including secret services) as well as such purchases as the Minister of Defence deemed necessary.

### The Secret Services Account

50 Until April 1993, and in terms of section 2(2)(a) of the Secret Services Account Act No 56 of 1978, the Minister of State Expenditure could, at the request of the minister concerned, transfer money from the Secret Services Account to the:

- Foreign Affairs Special Account;
- Information Service of South Africa Special Account;
- South African Police Special Account;
- Security Services Special Account;
- Special Defence Account.

51 In terms of section 2 of the various Special Account Acts, the money in these accounts was to be utilised in connection with services of a confidential nature, with the functional minister being able to approve secret projects subject to conditions and directions as deemed necessary.

52 Following the report of the Auditor-General on the affairs of the Civil Co-operation Bureau (CCB) and certain other irregularities within the SAP Special Account, the Government reviewed the funding of secret services during 1992. This resulted

in the promulgation of the 1992 Secret Services Account Amendment Act, which established the Secret Services Evaluation Committee chaired by Mr Amie Venter (as reported earlier).

- 53 The amended Act provided for the evaluation and control of secret services, the establishment of an account for secret services, and related matters. The amendment deleted the provisions for the transfer of moneys to all the above-mentioned special accounts and the Special Defence Account, excluding the Security Services Special Account. All legislation creating different special accounts, except the Security Services Special Account Act No 81 of 1969 and the 1974 Defence Special Account Act, was also repealed.
- 54 In terms of section 2(2)(a) of the amended Secret Services Account Act, the Minister of State Expenditure was authorised, at the request of the responsible minister, to transfer funds from the Secret Services Account to the Security Services Special Account of the NIS. In the case of other departments, the Minister of State Expenditure was authorised, in terms of section 2(3)(a) of the Act, to make funds available for secret services.
- 55 As already indicated, the amended Act further determined (in section 3A(1)) that a committee, known as the Secret Services Evaluation Committee, be established. In terms of section 3A(6), the committee would evaluate –

*"all intended secret services in order to determine whether the object thereof and the modus operandi to achieve it, are in the national interest; and review all secret services annually with the said object in order to determine whether they may be continued."*

- 56 These amendments commenced on 1 April 1993.
- 57 Further refinements to the administration of secret services were effected as from 1 April 1994 and provided for the following:
  - the establishment of the Joint Standing Committee on Intelligence;
  - the creation of the post of an inspector-general of intelligence;
  - the establishment of the National Intelligence Co-ordinating Committee (NICOC).

## Audit limitations and risks

- 58 Until the time of the information scandal in 1979, expenditure relating to secret

services was not audited by the Auditor-General. The minister concerned could simply issue a certificate certifying that all funds involved had been spent for the purpose for which they were originally budgeted. Following the information scandal, Parliament decided that all secret services had to be audited by the Auditor-General.

59 The Exchequer and Audit Act No 66 of 1975 and the various Special Account Acts were appropriately amended to provide for such an audit. However, although the audits were nominally assigned to the Auditor-General, various limitations still existed which, in practice, limited the scope of the audit. The Auditor-General cited following examples:

- In the case of the Security Services Special Account (NIS) the minister concerned, after consultation with the then Auditor-General, stipulated that only his own internal audit division would execute audits and that the Auditor-General would, for the purpose of his audit, accept a certificate from the Prime Minister regarding the expenditure and the investment of the unspent balances in the Special Account.
- Section 42(7) of the Exchequer and Audit Act No 66 of 1975 made provision for the Minister of Finance to limit such audits:

*When in view of the confidential nature of an account it appears desirable that such account be excluded from a detailed audit by the Auditor-General, the Minister of Finance may, after consultation with the Auditor-General, determine to what extent the audit thereof shall be carried out and what vouchers shall be made available to the Auditor-General.*

- In terms of section 45(1A) of the Act, as it was then worded, the Minister of Finance could furthermore, after consultation with the State President and the Auditor-General, regulate reporting by the Auditor-General concerning aspects of secret accounts. In accordance with this provision, the most sensitive portions of the Special Defence Account were excluded entirely from external auditing for three financial years.

60 The *need-to-know* principle (that is, the auditing of small segments of the whole by specially selected members of the Auditor-General's staff, to prevent anyone outside from gaining an overall picture) constituted a further serious constraint. This was eventually acknowledged by the SADF, who accepted the need for change, but the audit office lacked the necessary staff undertake the task.

- 61 By way of compromise, the Auditor-General agreed during 1981 to the contractual appointment to his department of a retired SADF general who, without disclosing to the Auditor-General the content of projects, would issue an audit certificate on his behalf concerning the Special Defence Account. (This stipulation of non-disclosure was later disputed by the SADF.) It was realised, however, that this arrangement was probably *ultra vires* and a new solution had to be sought.
- 62 Following consultations between the Auditor-General and the relevant interested parties in the Finance and Intelligence Departments as well as the SADF, and after having appraised the contents of a combined financial/operational file relating to a certain sub-project which amounted to R23 million in 1983–84, the Auditor-General accepted the SADF's proposals. This allowed specially selected members of the audit staff of the Auditor-General to audit ultra-sensitive portions of the Special Defence Account in terms of the 1986 agreement. Access was, however, limited to financial files. It did not extend to operational files. The SADF, however, assured the Auditor-General that he personally would at all times be granted absolute and unfettered access to all documentation. A better understanding later developed and the auditors concerned were able to gain access to operational files – with the exception of the CCB, in which case access to operational files was consistently denied by the managing director of the CCB.
- 63 After continued efforts by the Auditor-General to improve audit evidence, the entire Special Defence Account became 'open' for auditing, and sections 42(7) or 45(1A) of the Exchequer and Audit Act were not used again during the 1985–86 to 1988–89 financial years. Both sections were repealed by the Auditor-General Act No 52 of 1989 and replaced with section 6(3) of the latter Act as from 26 May 1989.
- 64 Although the 1989 Auditor-General Act stipulated the role and functions of the Auditor-General, that Act still contained the following limitation as far as the reporting phase of the audit was concerned: Section 6(3)(a) "shall limit such report to the extent which the Minister of Finance, in consultation with the State President and the Auditor-General may determine".
- 65 The office of the Auditor-General became increasingly concerned at the low level of assurance that accompanied its audit opinion. This resulted in a qualified audit opinion being given with effect from the 1990–91 financial year. The wording of the audit opinion reads as follows :

*As regards the auditing of the Secret Service Account and the Special Defence Account, it should further be noted that, owing to the nature of some of the income and expenditure and the circumstances in which it is incurred and recorded, as well as the utilisation of assets, the level of audit assurance that can be furnished will often be lower than is normally the case in ordinary audits.*

66 After obtaining legal opinion, it was decided to further qualify the audit opinion. As of the 1991–92 financial year, the Auditor-General’s reports to Parliament contained the following qualification:

*As regards the basis of reporting in connection with the proviso to section 6(3) of the said Act, a legal opinion was obtained to confirm what actions constitute, for audit purposes, irregularities which must be reported. The legal opinion states, inter alia:*

*... that if the Auditor-General has performed all aspects of ‘regularity auditing’ [see below] as stated in the report, he has done his duty.*

*There is no obligation on him (the Auditor-General) to indicate culpable contravention of statutes, instructions or the common law unless he is of the opinion that, in the commission of such contravention, the scope of the authority to incur expenditure was exceeded. Finally it should be borne in mind that auditing is, in the first and last places concerned with compliance with financial authorisation, i.e. the authority to perform certain actions and to utilise public money for the performance of authorised actions. The (Auditor-General) Act does not concern itself with the penal nature of the actions nor with the ‘moral reprehensibility’ of the actions as such.<sup>5</sup>*

## **Current position of the Auditor-General**

67 Chapter 9 of the Constitution of the Republic of South Africa Act No 108 of 1996 provides for the establishment of a number of state institutions in support of constitutional democracy. In section 181(1)(e) the Auditor-General is listed as one of these institutions. Further provisions of this section also address the independence and protection of the powers and functions of these institutions. Section 188 of the 1996 Constitution Act further elaborates on the functions of the Auditor-General and continues to strengthen the constitutional authority of the Auditor-General’s office.

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<sup>5</sup> The report of the Auditor-General provides an overview of the various levels of financial authority exercised by the various departments as reported to him, noting that his office has not performed an audit on these levels.

68 The Auditor-General Act No. 12 of 1995, effective from July of that year, amended the 1989 Act to provide for more independent reporting by the Auditor-General. The Auditor-General now reports *after* consultation with the President, Minister of Finance and the responsible Minister and not *in* consultation as was required previously. Furthermore, the reports may not be limited as regards unauthorised expenditure or any other irregularity, except in respect of the disclosure of facts which will be to the detriment of the national interest.

## ■ SCHEDULE OF SECRET PROJECTS

69 The Auditor-General has provided the Commission with a schedule of secret projects received from eight government departments: the NIA; the Department of Justice; the South African Police Services (SAPS); the Department of Foreign Affairs; South African Secret Services; the Department of State Expenditure, the South African National Defence Force (SANDF) and the Department of Arts and Culture, Science and Technology.

70 This information was made available shortly before the termination of the work of the Commission. Code names and/or numerical references were used, rendering this information of limited value. The NIA, for example, identified 749 code-named projects with limited or no detail. Given the closure of investigative work by the Commission on 31 July, no opportunity existed for these matters to be pursued.<sup>6</sup>

## ■ AN OVERVIEW OF THE TYPE AND NATURE OF SECRET PROJECTS

71 The Commission had requested the Auditor-General to provide an in-depth analysis of ten to fifteen window cases illustrative of the type and nature of the secret projects under consideration. Due to the scarcity of information and documentation available this was, however, not possible.

72 There were only a few projects for which all the audit documentation needed for a proper window-case presentation was available. These are *Project Coast* (a programme involving chemical and biological warfare initiatives) and some projects of the Department of Foreign Affairs, although here too, little information was made available to the Commission. The audit of *Project Coast* is still to be completed, as is the Auditor-General's investigation into the fairness and reasonableness of the determination and/or calculation of the cancellation fee and the

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<sup>6</sup> The full report of the Auditor-General to the Commission entitled 'A Review by the Auditor-General of the Secret Funds for the period 1960 to 1994' is available in the National Archives.

amounts paid to the then SADF for the shares and loan amounts of the companies involved. An investigation by the Office for Serious Economic Offences into the alleged irregularities has also not been completed, as stated in the Auditor-General's audit reports to Parliament. The Auditor-General was therefore unable to express an opinion on this project.

73 The projects instituted by the Department of Foreign Affairs were constituted mainly around sanctions-busting operations. They involved the setting up of financial trusts and various front companies and organisations in a number of countries around the world.<sup>7</sup>

74 According to information supplied, but not audited, the following amounts were transferred by the Treasury, and later the Department of State Expenditure, to departments in respect of secret funds between 1978 and 1994:

South African Information Services	R60 240 017
Foreign Affairs	R79 434 205
National Intelligence	R2 279 261 995
SADF	R15 285 000
SAP	R289 907 000
National Education	R8 768 841
Bantu Administration	R6 000
Finance	R18 138 112
	<b><u>R2 751 041 170</u></b>

75 The above amount of R15 285 000 does not reflect the amount that passed through the Defence Special Account. The Auditor-General has provided the Commission with a schedule that identifies a total amount of R49 648 737 969 passing through this account, with a further R586 501 609 being expended on 'sensitive line function projects' between the 1974–75 and 1994–95 financial years.

76 Similarly, information provided by the Auditor-General concerning amounts paid by Foreign Affairs 'for control of sanctions and disinvestment out of secret funds' lists a total of 417 projects with an expenditure of R210 087 535.32, including, for example, project No 35 with an expenditure of R25 million.

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<sup>7</sup> The audit files in respect of Project Coast as well as some of the Department of Foreign Affairs projects were available for further inspection.

## ■ CONCLUSION

77 From the limited information at its disposal, the office of the Auditor-General attempted to provide the Commission with as complete a picture as possible of the auditing of all secret funds. To the extent that information and documentation has been destroyed, and persons with the appropriate knowledge have left the relevant departments, the Auditor-General was not able to provide any assurance that the information was completely accurate or complete.

78 This report does, however, provide an insight into the environment in which the Auditor-General operated for almost the entire period under review. Whilst Parliament required the Auditor-General to provide audit assurance, state departments often gave access to information on a limited and reluctant basis. There is no evidence to suggest that the office of the Auditor-General did not seek to exercise its mandate to the best of its ability within the constraints of the law and the culture of secrecy that prevailed at the time. The Auditor-General is on record as saying:

*As a result of the foregoing, the Office has always maintained and has publicly reported that the audit assurance obtained from auditing secret funds is lower than would normally be the case. It is with regret that, because of the inherent limitations of any audit as well as the particular circumstances set out earlier, the Office must accept that expenditure audited by it may have been incurred, or assets may have been acquired, from the relevant secret funds for the purpose of committing gross human rights violations.*

### THE COMMISSION FINDS THAT:

- SECRET FUNDING WAS USED TO PROMOTE A POLITICAL CLIMATE THAT LED DIRECTLY AND INDIRECTLY TO GROSS HUMAN RIGHTS VIOLATIONS.
- BEFORE 1991, SECRET FUNDING WAS USED TO PROMOTE PARTY POLITICAL AND SECTARIAN POLITICAL INTERESTS.
- SECRET FUNDING WAS INADEQUATELY ADMINISTERED AND AUDITED – ALTHOUGH ATTEMPTS WERE MADE AFTER 1991, THROUGH THE KAHN COMMISSION, THE MINISTERS' COMMITTEE ON SPECIAL PROJECTS AND THE EVALUATION COMMISSION, TO REDRESS THIS SITUATION.
- INITIATIVES UNDERTAKEN BY THE AUDITOR-GENERAL'S OFFICE TO EXECUTE A MORE PRECISE AUDIT WERE HAMPERED BY LEGISLATIVE CONSTRAINTS AND A 'NEED-TO-KNOW' MILIEU WHICH PREVAILED IN STATE DEPARTMENTS, AS WELL AS BY THE REFUSAL OF SOME STATE OFFICIALS DEALING WITH SECRET FUNDS TO PROVIDE THE DOCUMENTATION AND OTHER INFORMATION NEEDED FOR AUDITING PURPOSES.

- AGENTS AND STATE EMPLOYEES WORKING ON SECRET PROJECTS RECEIVED FINANCIAL AND OTHER SETTLEMENTS WHEN SPECIFIC SECRET PROJECTS WERE TERMINATED, WHICH SHOULD BE REGARDED AT LEAST AS MORALLY QUESTIONABLE.
- FUNDING THROUGH THE SPECIAL DEFENCE ACCOUNT IN PARTICULAR WAS NOT SUBJECT TO ADEQUATE AUDITING UNTIL AT LEAST THE 1985-86 FINANCIAL YEAR.
- THE FUNDING OF CCB ACTIVITIES WAS AT NO TIME SUBJECTED TO AN ADEQUATE AUDIT.

THE KAHN COMMITTEE AND THE SUBSEQUENT BODIES DID NOT PROVIDE SUFFICIENT DETAIL REGARDING STATE SECRET FUNDING. PROJECT DESCRIPTIONS PROVIDE LIMITED INFORMATION. AN EXAMPLE CAN BE MADE OF *PROJECT ECHOES*, WHICH IS DESCRIBED AS "AN SADF ACTIVITY AIMED AT COMBATING VERBAL ATTACKS ON ITS DUTIES AND FUNCTIONS. ITS ACTIVITY RELATES TO THE ACQUISITION OF INFORMATION IN RESPECT OF MK MAINLY, AND PASSING THIS TO THE MEDIA." THE AUDITOR-GENERAL'S REPORT DESCRIBES IT AS "MAINTAINING A SA ARMY COMMUNICATION CAPABILITY TO WITHSTAND MILITARY AIMED PROPAGANDA ACTIONS". THE COMMISSION HAS INFORMATION THAT (INTENTIONALLY OR OTHERWISE) LINKS *PROJECT ECHOES* TO HUMAN RIGHTS VIOLATIONS, IN THAT AN ASSASSINATION ATTEMPT ON MR DIRK COETZEE WAS FACILITATED UNDER COVER OF *PROJECT ECHOES*. THIS INFORMATION CONFIRMS THE OBSERVATION OF GENERAL PIERRE STEYN IN HIS INVESTIGATION INTO THE STRUCTURES AND ACTIONS OF MILITARY INTELLIGENCE, THAT IN A NUMBER OF INSTANCES, DUBIOUS AND ILLEGAL ACTIVITIES HAD BEEN SUCCESSFULLY WOVEN INTO AUTHORISED AND OFFICIAL OPERATIONS, MAKING DETECTION MORE DIFFICULT.

- QUESTIONS REMAIN AS TO BOTH THE ACTIVITIES AND FINANCIAL RESOLUTION OF SEVERAL PROJECTS. IN PARTICULAR, THE ISSUE REGARDING THE USE MADE OF THE LARGE SUM OF MONEY LOCATED IN A FOREIGN TRUST ACCOUNT IS OUTSTANDING. IT IS SUGGESTED THAT THE ASSETS OF THE TRUST WERE IN THE VICINITY OF R20 MILLION, AFTER THE PAYMENT OF RECOMMENDED SETTLEMENTS.

THE COMMISSION FINDS THAT INSUFFICIENT INFORMATION IS PRESENTLY AVAILABLE TO DESCRIBE THESE PROJECTS ADEQUATELY AND RECOMMENDS THAT FURTHER RESEARCH AND INVESTIGATION BE DONE INTO THESE SECRET PROJECTS TO ESTABLISH A FULLER PICTURE OF THEIR RANGE OF ACTIVITIES.

# Special Investigation into the Secret Burial of Activists and Report on Exhumations

## ■ INTRODUCTION

- 1 The exhumation of the remains of Ms Phila Portia Ndwandwe took place in KwaZulu-Natal on 12 March 1997. Commissioner Richard Lyster noted that this was one of "the most poignant and saddest" of the exhumations. The remains were found buried in a remote part of the province. According to Lyster:

*She was held in a small concrete chamber on the edge of the small forest in which she was buried. According to information from those that killed her, she was held naked and interrogated in this chamber, for some time before her death. When we exhumed her, she was on her back in a foetal position, because the grave had not been dug long enough, and had a single bullet wound to the top of her head, indicating that she had been kneeling or squatting when she was killed. Her pelvis was clothed in a plastic packet, fashioned into a pair of panties indicating an attempt to protect her modesty.*

- 2 The Commission was requested by political parties and individuals to establish the whereabouts of those who had disappeared during the period of the Commission's mandate. The Investigation Unit of the Commission investigated many cases of reported disappearances. In the process, secret burial sites were exposed and perpetrators involved in the killings and secret burials identified. In most cases, it was found that the perpetrators had covered up the identity of the victims and their final burial places.
- 3 Most of the secret graves are located in the former Transvaal, KwaZulu/Natal and the Orange Free State, near the borders of Lesotho, Swaziland and Mozambique.
- 4 Fifty bodies were exhumed, but almost 200 cases have not been finalised. The lengthy procedures necessitated by each exhumation made it impossible for the Commission to complete this task.

## ■ **METHODOLOGY**

- 5 Cases of disappearances came to the attention of the Investigation Unit largely through statements made to the Commission by deponents who believed their relatives had disappeared as a consequence of their political activities. These statements were cross-referenced to applications for amnesty, yielding some positive results. The Investigation Unit also referred to a list supplied by the African National Congress (ANC) of members who had been kidnapped by South African security forces, or who had disappeared after infiltrating the country. Mortuary registers, cemetery registers and undertakers were consulted in the process of locating bodies.
- 6 An undertaker in Louis Trichardt, Transvaal told a Commission investigator that his father, who had owned the business before him, had been visited by the police in 1987/1988 and asked to come to a farm in the mountains where they "were going to shoot blacks". His father was to collect the bodies, accompanied by his son.
- 7 The undertaker pointed out approximately seventy graves in that area. Of the twenty bodies exhumed by the Commission, all were found to be ANC members from exile who were tortured before they were killed. Some of the bodies were headless; some without arms or legs; some had burn marks from a cutting torch.
- 8 It was found that members of the Nylstroom, Pietersburg, Messina, Louis Trichardt and Tzaneen security police in the Transvaal joined with local farmers to form a group that 'specialised' in capturing, torturing and then killing ANC members who infiltrated the country.

## ■ **EXHUMATION PROCESS**

- 9 Methods of exhumation differed from region to region. In KwaZulu-Natal, exhumations were performed in the presence of a pathologist. The graves were opened, the remains sealed and the body taken for autopsy. After this, the family was able to rebury the remains. The Investigation Unit in the regional office based in Johannesburg placed more emphasis on getting the bodies to the families as quickly as possible; autopsies were not performed as a matter of procedure.
- 10 The Commission made extensive use of the services of the South African Police Services' (SAPS) video unit, and particularly their canine (sniffer-dog) unit.

- 11 In KwaZulu-Natal, many of the exhumations were carried out at former Security Branch 'safe houses' – places where police held informers and where, in the late 1980s, they allegedly took activists who had been abducted in order to interrogate and then kill them. The sites where the bodies were believed to have been buried were cordoned off, and a team from a specialist undertaker's firm would test the soil for signs of recent disturbance and demarcate an area for excavation.
- 12 Police sniffer-dogs were used to seek out the presence of lime below the soil surface, as lime was almost invariably poured onto the bodies in order to hasten their decomposition. Once the correct spot had been located, a pathologist would supervise the removal of soil until the body was located. The pathologist would enter the grave and remove the body – bone by bone, in the many cases where the flesh had completely disintegrated – in order to preserve the forensic integrity of the site.

## ■ DISAPPEARANCE OF MK OPERATIVES

- 13 Investigations into the disappearances and killings of Umkhonto weSizwe (MK) cadres showed that incidents in which they lost their lives occurred mainly near the borders of South Africa with Lesotho, Swaziland, Zimbabwe and Botswana. MK operatives who were intercepted while travelling in and out of the country were often killed in shoot-outs with the police or the army. In other cases, operatives were abducted and attempts were made to turn them into *askaris*. When they did not co-operate with the police, they were brutally killed and often buried in secret locations or in unnamed graves in cemeteries.

## ■ EXHUMATIONS (IN ORDER OF DATE OF EXHUMATION)

### **Phila Portia Ndwandwe<sup>1</sup> (aka MK Zandile)**

Age unknown; ANC/MK.

*Killed in 1988; exhumed 12 March 1997 at Elandskop farm, KwaZulu-Natal. Ms Phila Portia Ndwandwe was allegedly the acting commander of Natal MK activities from Swaziland and was responsible for the infiltration of ANC cadres into Natal. Durban Security Branch members abducted her from Swaziland. She was not prepared to co-operate with the police. They state that they did not have admissible evidence to prosecute her and that they could not release her, so they killed her and buried her on the Elandskop farm.*

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<sup>1</sup> KZN/NNN/018/DN; AM4513/97, AM5169/97, AM4077/96, AM4117/96, AM4130/96, AM4390/96, AM4508/96.

**Phumezo Nxweni<sup>2</sup>**

Age unknown; ANC/MK.

*Killed 4 November 1988; exhumed 14 March 1997 at Verulam farm and reburied in the Eastern Cape.*

*Mr Phumezo Nxweni was allegedly the commander of an underground MK unit in Durban, which the Security Branch believed was responsible for several bombings. Durban Security Branch members arrested him on 4 November 1988. He refused to work as an informant. They therefore decided to kill him. He was buried on a Security Branch farm near Verulam.*

**Lesaja Sexwale<sup>3</sup> (aka Reggie Gladman)**

Age 31; ANC/MK.

**Sureboy A Dali (aka Titus Ntombela and Charlie Bronson)**

Age unknown; ANC/MK.

**Thabo Rakubu (aka Shakes Mde Lungile)**

Age unknown; ANC/MK.

**Mthimkhulu Mavuso (aka Patrick Xesi and Zola Mqadi)**

Age unknown; ANC/MK.

*All four were killed on 13 August 1981 and exhumed on 9 April 1997 at Lushof farm, Rouxville, near Aliwal North.*

*Mr Lesaja Sexwale, Mr Sureboy A Dali, Mr Thabo Rakubu and Mr Mthimkhulu Mavuso were members of a unit of MK operatives deployed in the former Transkei. On 7 August 1981, they were caught in a police roadblock near Elliot. There was a shoot-out in which Rakubu and Mavuso died. Sexwale and Dali escaped but were cornered on 13 August 1981 at Barkly Pass. They were overpowered and died fighting. The four bodies were buried secretly on the farm Lushof in the magisterial district of Rouxville (near Aliwal North).*

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<sup>2</sup> EC0246/96WTK; AM4077/96, AM4117/96, AM4130/96, AM4388/96, AM4508/96.

<sup>3</sup> JB02462/01GTSOW.

**Ntombi Kubheka<sup>4</sup>**

Age 41; ANC/MK.

*Ms Ntombi Khubeka was killed in May 1987. A body which is believed to be hers was exhumed from a pauper's grave at Groutville on 5 May 1997.*

*Khubeka was allegedly an MK member who co-ordinated the external and internal combat units. Durban Security Branch members arrested her in May 1987. She allegedly died of a heart attack during interrogation. The possibility that she was tortured cannot be ruled out. Her body was disposed of in Inanda/ Newtown to conceal the cause of death and the identity of the perpetrators.*

**Victor M Mgadi (aka Daniel Neto), buried as Sipho Gazi**

Age 27; ANC/MK.

*Killed 22 November 1982; exhumed 6 May 1997 at Piet Retief.*

*According to Mr Lungile Wiseman Magxwalisa (aka Thomas Zondo, Nthebe), the sole survivor of the incident, he and Mr Victor M Mgadi, Mr Titus Dladla, and Mr Thuluso A Matima, all MK operatives, crossed the Swaziland border at Mahamba on 22 November 1982 and took a taxi from Piet Retief to Pongola. The taxi driver reported them to the police, who stopped them at a roadblock. Matima refused to give himself up to the police and therefore shot himself. Mgadi and Dladla ran away and were subsequently shot by police from a helicopter. When the family of Mgadi approached the Commission, the KwaZulu-Natal and Gauteng investigation units together exhumed the remains of Mgadi, buried under the name of Victor Mokagetla (grave 802), from Thandokukhanya cemetery, Piet Retief.*

**Bheki Mkwani<sup>5</sup> (aka MK Tekere)**

Age unknown; ANC/MK.

*Killed 1989; exhumed 6 August 1997 at Elandskop farm.*

*Mr Bheki Mkwani was allegedly an ANC operative who was caught by the Durban Security Branch while on a mission to place bombs in the Durban area at the end of 1988 and beginning of 1989. He was not prepared to co-operate with the police and there was no admissible evidence that could be used against him in court. The Durban and Pietermaritzburg Security Branch members therefore killed him and buried him on the Elandskop farm.*

<sup>4</sup> JB03477/02PS; AM4077/96, AM4508/96, AM51069/96, AM4130/96, AM4388/96.

<sup>5</sup> KZN/FS/121/DN.

**Blessing Ninela<sup>6</sup>**

Age unknown; ANC/MK.

*Killed 13 July 1988; exhumed 6 August 1997 at Bulwer.*

*Mr Blessing Ninela was allegedly an MK operative who was arrested on 13 July 1988 while on a mission to Natal to place bombs. The Durban Security Branch did not have admissible evidence to use against him in court. They decide to kill him, and drove him to a railway line just outside Bulwer. They shot him and then blew up his body to make it appear as if he had blown himself up in the process of placing explosives. He was buried in a pauper's grave in Bulwer.*

**Zola Tati**

Age unknown; MK.

**Charles Tsatsi**

Age unknown; MK.

*Both killed 10 November 1986; exhumed 11 November 1997 at Sekoto cemetery, Louis Trichardt.*

*Mr Zola Tati and Mr Charles Tsatsi, with Mr Milo Malatsi, formed part of an MK group which was ambushed near Soutpansberg while infiltrating from Botswana.*

**Titus Dladla (aka Zakes Bhanaza), buried as Michael Sekupe**

Age 28; ANC/MK.

**Thuluso A Matima<sup>7</sup> (aka Derrick Lekota), buried as Abione Thela**

Age 32; ANC/MK.

*Both were killed on 22 November 1982, exhumed 27 November 1997 at Piet Retief. See the account above under Victor M Mgadi. The Johannesburg office Investigation Unit exhumed the remains of these two cadres from Thandokukhanya cemetery (Piet Retief).*

**Mzwandile Radebe<sup>8</sup>**

Age 27; ANC/MK.

*Killed 14 August 1986; exhumed 27 November 1997 at Piet Retief.*

*Mr Mzwandile Radebe was a member of MK who came into the country from Swaziland and was killed by the security forces.*

<sup>6</sup> AM4077/96, AM4130/96, AM4508/96.

<sup>7</sup> JB05078/03NW.

<sup>8</sup> JB05785/01GTSOW.

**Ruben M Letsila (aka Bernard Zonke)**

Age unknown; MK.

*Killed 1986; exhumed 9 December 1997 at Sekoto cemetery, Louis Trichardt.*

*Mr Ruben M Letsila was travelling in a minibus from Zimbabwe when the vehicle was stopped at a roadblock. He was shot and killed by security forces near the Motale River in Venda.*

**Richard B Molokwane<sup>9</sup> (aka Mmutle Ramanase)**

Age 26; ANC/MK.

**Vincent Sekete (aka Sydney Sebephu)**

Age 32; ANC/MK.

*Killed 28 November 1985; exhumed 10–12 December 1997 at Piet Retief. Mr Richard Molokwane, Mr Victor Lunga Khayiyane and Mr Vincent Sekete died in a shoot-out with the police, following an attack at the SASOL complex on 28 November 1985.*

**Emmanuel Mthokizisi Mbova Mzimela (aka Dion Cele)**

Age unknown; ANC/MK.

*Killed 1988; exhumed 10 March 1997 at Elandskop farm.*

*Mr Emmanuel Mthokizisi Mbova Mzimela was an MK member based in Swaziland. The Security Branch in Durban and Pietermaritzburg obtained information that Mzimela would be prepared to co-operate with the police. He was abducted from Swaziland in July 1988. He indicated that he was not prepared to co-operate with the police. They decided that they could not release him as he might continue with his activities (including the smuggling of arms into South Africa and the recruitment of people for internal and external training in the ANC). They therefore killed him and buried him on a farm in the Elandskop area.*

**Brian Ngqulunga<sup>10</sup>**

Age 42; South African Police/askari.

*Killed 21 July 1990. Exhumed 16 March 1998 at Vlakplaas.*

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<sup>9</sup> JB00281/01GTSOW.

<sup>10</sup> JB01965/02PS; AM0066/96, AM2775/96, AM3764/96, 5283/97, AM5458/97.

*Mr Brian Ngqulunga was a member of a team from Vlakplaas, led by Captain Dirk Coetze, which murdered Griffiths Mxenge, prominent Durban human rights lawyer. Ngqulunga was later tortured and killed by his own handlers at Vlakplaas in 1990 under orders from Colonel Eugene de Kock, when they felt that he was becoming a security risk to them. Colonel De Kock applied for amnesty for the killing. Ngqulunga's family approached the Commission and requested that his body be exhumed from the farm, to be buried at the place of their choice.*

**Paulos Madiba**

**Watson M Majova**

Age 27; ANC/MK.

**Aaron Makwe**

Age unknown; ANC/MK.

**Nine unknown persons**

*Mr Majova and Mr Makwe were killed on 28 November 1985; exhumed 17 March 1998 at Boshoek.*

*On 17 March 1998, the Commission prepared to exhume the bodies of Mr Aaron Makwe, Mr Watson Majova and Mr Paulos Madiba on a farm near Boshoek, outside Rustenburg. An employee of the undertakers responsible for burying them pointed out three graves to investigators. When the three graves were opened, it was found that there were twelve bodies, four in each grave. The person responsible for burying the original three bodies could not explain this. The twelve bodies that were exhumed are believed to include those of the three men mentioned above. The identity of the remaining nine bodies could not be established.*

*Majova's remains have now been reburied by his family in Potchefstroom.*

**Patrick Motswaletswale (aka Barry C Maputo)**

Age unknown; ANC/MK.

**Magic Madi**

Age unknown; ANC/MK.

*Both killed 12 June 1983; exhumed 18 March 1998 at Sekoto cemetery,  
Louis Trichardt.*

*Mr Patrick Motswaletswale, Mr A Mlaudzi, and Mr Magic Madi were kidnapped at Beit Bridge after a postmaster who was a police informer intercepted a letter with details of their travel. They were taken to Pafuri, Venda, where they were put into small hut by the police and shot at.*

*The remains of A Mlaudzi were not exhumed, because the family had already given him a proper funeral.*

**Ndlela Sibiya (aka Baba)**

Age 37; MK.

**Matthews T Nkosi (aka Mthakathi T Nkululeko)**

Age 36; MK.

*Killed 7 July 1986; exhumed 18 March 1998 at Thoyandowu cemetery. Mr Ndlela Sibiya and Mr Matthews T Nkosi, MK operatives, were travelling from Botswana on bicycles. They told a local person about their intended mission to blow up Malelane power station. This person then reported this to the police. The party was ambushed on the way to the power station, and a Mr Shabangu, a local ANC chairperson, was killed along with the two cadres. The two cadres were buried illegally.*

**Selby Mavuso<sup>11</sup> (aka Larry Makhaya)**

Age unknown; MK.

*Killed 8 April 1987; exhumed 18 March 1998 at Thabazimbi cemetery. Mr Selby Mavuso and two other MK members were on their way from Botswana to Derdepoort when somebody reported them to the South African Defence Force (SADF). The army went out to look for them, and a shoot-out followed in which Mavuso died. In a statement from the army, it was said that Mavuso tried to blow them up. There is no information available to corroborate this. Mavuso's body was buried by the authorities. The bodies of the two other MK members involved, Mr Matima and Mr Matulo, were buried by their parents.*

**Robert Mokoena (aka George Sello)**

Age 31; ANC/MK.

*Killed 10 May 1981; exhumed 20 March 1998 at Pienaar cemetery, Nelspruit.*

*The police, the army and the Security Branch were called in when Mr Robert Mokoena went to Bushbuckridge railway station to blow up the railway line. According to a police statement, the police found Mokoena and gave him a lift. Inside the police minibus, Mokoena took a hand grenade out of his bag and detonated it, killing himself and a police officer. However, Mokoena was also found to have been shot in the head.*

**Sipho Kolisi<sup>12</sup>**

Age 27; ANC/MK.

*Killed 1985; exhumed 25 March 1998 at Sekoto cemetery, Louis Trichardt. Mr Sipho Kolisi, an MK member, was killed during a shoot-out with police.*

**Milo Malatsi**

Age 34; MK.

*Killed 10 November 1986; exhumed 25 March 1988 at Sekoto cemetery, Louis Trichardt.*

*Mr Milo Malatsi, along with Mr Zola Tati and Mr Charles Tsatsi, formed part of an MK group that was ambushed near Soutpansberg while infiltrating from Botswana.*

**Abbram More (aka Happy Batho)**

Age 27; MK.

**Oupa Lukhele**

Age 28; MK.

**Alfred Nkosi**

Age 30; MK.

**Mlungisi Velaphi**

Age 34; MK.

**Daniel Nkabinde**

Age 32; MK.

*All killed on 28 March 1988; exhumed on 25 March 1998 at Sekoto cemetery, Louis Trichardt.*

*In March 1988, a group of MK operatives returning from Botswana infiltrated South Africa via the Motale River at the border of Botswana and Zimbabwe and stayed over at Soutpansberg. They were Mr Abram More, Mr Oupa Lukhele, Mr Alfred Nkosi, Mr Mlungisi Velaphi and Mr Daniel Nkabinde, accompanied by an askari who alerted the Security Branch to their presence. The group was rounded up, shot at, tortured and attacked with hand grenades. Some were decapitated and had their hands and penises severed. Investigators believed that the men were tortured in front of each other and died painfully and slowly.*

**Oupa Funani<sup>13</sup>**

Age unknown; ANC/MK.

*Killed 21 July 1988; exhumed 5 May 1998 at Piet Retief.*

*Mr Oupa Funani was killed by soldiers at Mahamba gate near Piet Retief. He and Mr Velile Zwane were returning from Swaziland where they had gone to fetch hand grenades for a mission. When the police searched them at the border gate, Funani dropped a hand grenade. He was then shot and killed by soldiers. His colleague was arrested by the police and sentenced to ten years on Robben Island. Funani was buried as an unidentified person at Piet Retief.*

**Bafana Mahlombe (aka Jazz Walker)**

Age unknown; ANC/MK.

**Bhekuyise Sithebe<sup>14</sup> (MK Vusumusi Mbongwe)**

Age unknown; ANC/MK.

**James Masango (aka MK Hawka)**

Age unknown; ANC/MK.

*All killed 11 February 1983; exhumed 7 May 1998 at Dumbe cemetery, Paulpietersburg.*

13 JB00777/01GTSOW.

14 KZN/SELF172/DN.

*Mr Bafana Mahlombe, Mr Bhekuyise Sithebe, and Mr James Masango are alleged to have been shot in mountainous terrain with the assistance of army helicopters.*

**Bheki Sam Mchunu (aka MK Jay Jele Gxige)**

Age unknown; ANC/MK.

**Henry Mavella Manyoni Nkosi**

Age unknown; ANC/MK.

*Both killed 8 June 1982; exhumed 7 May 1998 at Dumbe cemetery, Paulpietersburg.*

*Mr Bheki Sam Mchunu and Mr Henry Mavella Manyoni Nkosi were allegedly killed in Bethanie by a businessperson and former police officer. It is alleged that they were shot while running away after the driver of the taxi they were travelling in had alerted this businessperson to their presence. Mchunu's sister was summoned to the police station and positively identified his body. He had a gunshot wound to the back of his head. She was told to buy a coffin and come back to fetch the body. When the family returned with the coffin, they were told they could not bury him. After this, the police continued to come to the house asking for Mr Mchunu as if he were still alive. Mchunu's remains have been re-buried in Vryheid by his family.*

**Mxolisi Penwell "Mubi" Khumalo**

Age unknown; ANC/MK.

*Killed 30 July 1988; exhumed 8 June 1998 at Pietermaritzburg.*

*Mr Mxolisi Penwell "Mubi" Khumalo was killed by the Security Branch at Sobantu, Pietermaritzburg, who had received information about his presence in the area. Police claimed that Khumalo had a hand grenade in his pocket and was trying to detonate it when they shot him.*

**Linda Fikekahle "Post" Kuzwayo**

Age unknown; ANC/MK.

*Killed 24 December 1984; exhumed 8 June 1998 at Ncotshane cemetery (block 2, grave 047).*

*Mr Linda Fikekahle "Post" Kuzwayo, an MK cadre, was killed during a shoot-out with police.*

# Special Investigation into the Mandela United Football Club

## ■ INTRODUCTION

- 1 In 1986, following her return to Soweto after several years of banishment to the magisterial district of Brandfort in the Orange Free State, Ms Winnie Madikizela-Mandela was instrumental in providing refuge and material assistance to disaffected youth from Soweto and other communities.
- 2 During this period she also acted as an operative for the African National Congress (ANC) military wing, Umkhonto weSizwe (MK), and provided assistance to MK cadres infiltrating the country from neighbouring states. In late 1986 she was instrumental in the resolution of an internal conflict within the Orlando West branch of the Soweto Youth Congress (SOYCO), which resulted in the formation of the Mandela United Football Club (MUFC). A number of the youths involved in this conflict moved into the outbuildings of the Mandela home in the Orlando West section of Soweto.
- 3 Allegations against the youths living at and associated with the Mandela home first surfaced during 1987. Tension developed between the youths and other elements in the community and, at the end of July 1988, the Mandela home was burnt down. Community and religious leaders formed the Mandela Crisis Committee, a group which attempted, albeit unsuccessfully, to resolve the conflicts that led to the burning of the Mandela household.
- 4 After July 1988, Ms Madikizela-Mandela and a number of MUFC youths moved into new premises in Diepkloof Extension. The behaviour of these youths, frequently described by community residents as a "reign of terror", continued throughout the next seven months. In a February 1989 statement, the Mass Democratic Movement (MDM) stated:

*In recent years, Mrs Mandela's actions have increasingly led her into conflict with the various sections of the oppressed people and with the Mass Democratic Movement as a whole. The recent conflict in the community has centred largely around the conduct of her so-called football club, which has been widely condemned by the community. In particular, we are outraged by the reign of terror that the team have been associated with. Not only is Mrs Mandela associated with the team, in fact, the team is her own creation.*

- 5 Between August 1988 and the end of February 1989, the residents and associates of the Mandela household, including Ms Madikizela-Mandela herself, were implicated directly or indirectly in a range of incidents – including assaults and abduction, and the murder and attempted murder of at least a dozen individuals. The crisis peaked with the abduction of four youths from the Methodist manse in Orlando West and the murder of Stompie Seipei in late December 1988 and early January 1989.
- 6 An angry and agitated Soweto community attempted to sanction the activities of Ms Madikizela-Mandela and her football club through the offices of the Mandela Crisis Committee and other religious and community leaders. Madikizela-Mandela disparaged their cumulative efforts and did not heed their advice. This intransigence prompted even more drastic action, culminating in unprecedented public criticism of Madikizela-Mandela by the leadership of the MDM and the ANC in February 1989.
- 7 The ANC released the following press statement on 16 February 1989:

*It is with a feeling of terrible sadness that we consider to express our reservations about Winnie Mandela's judgement in relation to the Mandela football Club.*

- 8 This chapter examines a series of allegations against Madikizela-Mandela, the MUFC and other associates of her household, relating to cases reported to and investigated by the Commission. The cases examined occurred after her return from Brandfort to Soweto in 1986 up until her trial for kidnapping and assault in 1991. The Investigation Unit did not focus on all cases, but concentrated on the seven-month period from the end of July 1988 to the end of February 1989.
- 9 This chapter includes findings made by the Commission regarding Ms Madikizela-Mandela, the MUFC, and other individuals, as well as overall findings regarding the role of community structures, the ANC and the South African Police (SAP).

These findings pertain to specific cases as well as to general themes that arose during the overall inquiry.

- 10 It should be noted that there was considerable disagreement as to what and who constituted the MUFC.
- 11 A more detailed and comprehensive examination of the cases and issues raised in this summary was submitted to the Commission by the Johannesburg Investigation Unit. This report also contains a set of recommendations pertaining to each case brought before the Commission.

## ■ BACKGROUND TO INVESTIGATION

- 12 The allegations against Ms Madikizela-Mandela and the football club have been extremely controversial. The activities of the club, which culminated in the abduction and assault of youths and the subsequent events of January and February 1989, resulted in the prosecution and conviction of Madikizela-Mandela and three associates, as well as the conviction for murder of Mr Jerry Richardson, the coach of the MUFC. Madikizela-Mandela was found guilty in 1991 of kidnapping and of being an accessory to assault. The latter conviction was subsequently overturned, but a full bench of the Appellate Division upheld the kidnapping conviction in 1993.
- 13 The Commission's enquiry was initiated following submissions received at the Soweto hearing in July 1996 and from Ms Joyce Seipei, mother of Stompie Seipei, in KwaZulu-Natal. Additional information was also received from members of the MUFC as well as from the amnesty applications of Mr Jerry Richardson and former members of the Security Branch.
- 14 The task of the Investigation Unit was to try to piece together a series of seemingly unrelated incidents and allegations, some of which were already well known. It made use of court and police records, victim statements, amnesty applications, media records and other publications. These sources assisted in the identification of all individuals concerned and involved.
- 15 Ms Madikizela-Mandela was *subpoenaed* to appear before the Human Rights Violations Committee in terms of section 29 of the Act. The hearing was to be held *in camera* but, following a request by Madikizela-Mandela's counsel that the enquiry be held in public, the Commission decided to hold an *in camera*

session, followed by a public hearing at which a cross-section of witnesses would be called to testify and at which Madikizela-Mandela would be given an opportunity to respond publicly.

- 16 The *in camera* hearing began on 26 September and continued for a further day on 13 October. The transcripts of these hearings were released for use at the public hearings, which began on 24 November. A total of forty-three witnesses gave evidence before the nine-day hearing – including perpetrators, victims, former members of the MUFC and other associates of the Mandela household, members of MK, Ms Madikizela-Mandela’s former co-accused, members of the Mandela Crisis Committee, representatives of the mass democratic movement (MDM), religious and community leaders, members of the SAP Murder and Robbery Unit, former Security Branch members working with STRATCOM and the staff of the Commission’s Investigation Unit. The final day was reserved for the evidence of Ms Madikizela-Mandela.
- 17 Arising from the testimony obtained from these hearings, the Commission decided to conduct a further public hearing into the role of the Soweto Security Branch. On 28 and 29 January 1998, twelve former security policemen, including two former divisional commanders of the Soweto Security Branch and former Vlakplaas commander Eugene de Kock, testified before the Commission.
- 18 The broader enquiry also heard *in camera* testimony from members of the National Intelligence Agency (NIA), a former member of the Witwatersrand Attorney-General’s office and a former member of the ANC’s intelligence department who had been drafted into police investigations in 1995 to assist with the location of former MUFC members.
- 19 The Investigation Unit was constrained by insufficient personnel, time and resources. Initially, it received very little co-operation from the police regarding access to dockets and statements, receiving more information only in early 1998 when its mandate was coming to an end. It was thus not able to follow up all witnesses and leads.
- 20 The public hearing process was constrained by time limitations, allowing only for limited cross-examination, which angered many of the lawyers who appeared. The Commission emphasised, however, that this was not a court of law but a commission of enquiry – attempting to understand events rather than establish guilt or innocence.

## ■ CASES ADDRESSED BY THE COMMISSION

21 The following is a summary of the cases investigated by the Commission. Included, too, is Ms Madikizela-Mandela's response to allegations and questions and the Commission's findings in each matter.

### Killing of Morgan Bambisa

22 Mr Joseph Lebusa (aka 'Hansie') made a statement to the Commission in which he claimed that he joined the MUFC in 1986 and moved into the back room of the Orlando West home of Ms Madikizela-Mandela. He said he had been trained in the use of explosives by an MK cadre living there. When he was told that Mr Morgan Bambisa, a family member of the Mandelas', had stolen a minibus belonging to Madikizela-Mandela, he joined Madikizela-Mandela and other members of the MUFC in the search for Bambisa. Bambisa was found and locked in the back room of the Mandela home, but was later found dead in the veld. In his statement, Lebusa alleges that MUFC members were responsible for Bambisa's death. This matter was not investigated by the unit. When questioned, Madikizela-Mandela denied knowledge of the incident and of the person making the allegation. She said there was no one by the name of Bambisa in the family.

THE COMMISSION MAKES NO FINDING IN THIS CASE

### Killing of Xola Mokhala and Mlando Ngubeni

23 Mr Xola Mokhala was executed in front of his family on the evening of 24 January 1987. It seems he had confiscated a firearm from MK operative Oupa Alex Seheri, following a drunken shebeen brawl in Soweto. In attempting to retrieve the firearm, Seheri shot Mokhala and Mr Mlando Ngubeni dead. Police found one of the guns used in the attack in Ms Zindzi Mandela-Hlongwane's bedroom. An Audi used in the incident belonged to Ms Madikizela-Mandela. Oupa Seheri, Mr S'thembiso Buthelezi and Mr Charles Bongani Zwane (aka 'Bobo') were convicted for these murders, for which Seheri applied for amnesty. Mr S'thembiso Buthelezi admitted to the court that he had driven the Audi during the operation and had hidden the recovered Scorpion machine pistol at the Mandela house.

24 Ms Madikizela-Mandela has denied any direct knowledge of or involvement in this incident.

THE COMMISSION FOUND NO EVIDENCE THAT MS MADIKIZELA-MANDELA OR MS ZINDZI MANDELA-HLONGWANE HAD ANY DIRECT INVOLVEMENT IN THE INCIDENT THAT LED TO THE DEATHS OF MR XOLA MOKHAULA AND MR MLANDO NGUBENI. THE COMMISSION FOUND, HOWEVER, THAT THE 'OPERATION' TO RECOVER OUPA SEHERI'S FIREARM WAS LAUNCHED FROM THE MANDELA HOME IN ORLANDO WEST; THAT MADIKIZELA-MANDELA'S VEHICLE, AN AUDI, WAS USED FOR THE OPERATION, AND THAT OUPA SEHERI WAS ASSISTED BY MUFC MEMBERS S'THEMBISO BUTHELEZI, CHARLES BONGANI ZWANE (AKA 'BOBO') AND OTHER MEMBERS OF THE MUFC.

## Torture and mutilation of Peter Makhanda and Phillip Makhanda

- 25 On 26 May 1987, the Makhanda brothers, Peter and Phillip, were taken by force to the back rooms of the Mandela home, were assaulted and had ANC slogans carved into their bodies and battery acid rubbed into their wounds. Two MUFC members, Mr Absolom Madonsela and Mr Isaac Mokgoro, and an associate and sometime driver of Ms Madikizela-Mandela, Mr John Morgan, were charged in this case, and acquitted owing to contradictory evidence. However, subsequent evidence and testimony from other witnesses confirms that the incident did take place. Former MUFC member Gift Ntombeni confirmed the incident at the hearings. Whilst the Makhanda brothers had implicated her in the incident, Madikizela-Mandela was never questioned by the police. In her testimony she denied any direct knowledge of or involvement in this incident.

THE COMMISSION FINDS THAT THE ASSAULTS AND MUTILATION OF THE BROTHERS, PETER AND PHILLIP MAKHANDA, TOOK PLACE IN THE BACK ROOMS OF THE MANDELA HOUSE IN ORLANDO WEST IN MAY 1987 AND THAT MEMBERS OF THE MUFC PARTICIPATED IN THE ASSAULT AND/OR MUTILATION .

## Death of Vincent Sefako and killing of Susan Maripa

- 26 Former MK operative Mr Vincent Sefako died in mysterious circumstances in Tladi Section, Soweto, in October 1987. He is listed in the ANC's submission as an MK cadre who infiltrated the country but was not heard of again. His real name was Veli Tshabalala, his travelling name Vuyisile Sefako, and he was also known as 'Comrade V' or 'Mshoshovi'.
- 27 The facts surrounding Sefako's death remain unclear. The Commission obtained neither the inquest docket into Sefako's death nor the findings and submissions of a 1979 ANC commission of enquiry into his death. The available evidence, however, lends some support to the version given to the Commission by former MK operative Mr Thami Hlatswayo, that renegade MK members killed Sefako. It is not, however, clear whether the ANC enquiry corroborated other aspects of witness allegations regarding Madikizela-Mandela's and Mr Peter Dlamini's alleged

involvement in this incident and the subsequent murder of Ms Susan Maripa on 29 October 1987. ANC records may confirm or deny the proximity of Madikizela-Mandela and these cadres to the alleged incidents.

- 28 Susan Maripa reputedly witnessed Sefako being deliberately knocked down by a car which drove off the road onto the pavement. She ran to call an ambulance and found on her return that the body was gone. Later, Maripa was herself killed. Maripa's inquest finding shows that she was killed by multiple gunshot wounds from an AK-47 and at least one shot from a Makarov pistol. The police have warned Hlatswayo that he is a suspect in this matter. He applied for amnesty, but not in connection with this matter. Access to a full ballistics report will be necessary to determine whether or not a Makarov in the possession of Hlatswayo was used in the attack.
- 29 The evidence of Thami Hlatswayo and one other MK cadre implicated Peter Dlamini in her murder. Hlatswayo testified that Ms Madikizela-Mandela informed him that she had seen the body of 'Comrade V' at the mortuary and that he had a bullet wound on the back of his head. He also informed the Commission that there had been a feud between 'Comrade V' and Madikizela-Mandela over control of the MK unit, and that, she had been unhappy with the fact that 'Comrade V' had spent the night in the Mandela home. Hlatswayo testified further that, four days after this, Peter Dlamini had taken him at gunpoint to the home of Susan Maripe. He said he was given a Makarov and that Peter Dlamini shot Maripa dead. Hlatswayo testified that he believed that Madikizela-Mandela, Dlamini and Mr Percy Peterson were involved in the murder of 'Comrade V'. Hlatswayo reported the matter to the ANC in Lusaka, as did Ms Catherine Mathibe, Maripe's neighbour. Percy Peterson was recalled to Lusaka by the ANC, where he was placed under arrest and interrogated about these incidents. The Motsuenyane Commission report found that the ANC investigation into the death of 'Comrade V' resulted in Peterson being detained without trial and repeatedly tortured by the ANC's security department. The ANC did not make the findings of their own commission of enquiry available to the Commission.
- 30 Ms Madikizela-Mandela has denied knowledge of the incident and of any of the individuals involved, with the exception of Sefako, whom she knew as 'Comrade V'. She categorically denied any involvement in either killing.

**THE COMMISSION FINDS THAT 'COMRADE V' WAS KILLED BUT THAT THE IDENTITY OF THE PERSON OR PERSONS WHO KILLED HIM IS NOT CLEAR. THE COMMISSION FINDS THAT MK MEMBERS PERCY PETERSON AND PETER DLAMINI DEFECTED FROM THE UNIT THEY BELONGED**

TO AND BEGAN FREQUENTING THE HOME OF MS MADIKIZELA-MANDELA AT ORLANDO WEST. THE COMMISSION FINDS THAT, ON A BALANCE OF PROBABILITIES, PETER DLAMINI AND THAMI HLATSWAYO, BOTH MK CADRES, WERE RESPONSIBLE FOR THE KILLING OF MS SUSAN MARIPE AND THAT SHE WAS PROBABLY KILLED BECAUSE SHE WITNESSED THE INCIDENT IN WHICH A MOVING CAR DELIBERATELY KNOCKED DOWN VINCENT SEFAKO.

## Killing of Sicelo Dhlomo

- 31 Mr Sicelo Dhlomo was abducted and found dead in Soweto on 25 January 1998. The security forces were assumed to be responsible for his death. However, according to an amnesty application, Sicelo Dhlomo was killed by members of an MK unit led by Mr John Itumeleng Dube, allegedly because the MK unit suspected him of being a police informer.
- 32 Ms Xoliswa Falati alleged that Ms Madikizela-Mandela was involved in this incident. Madikizela-Mandela has denied any knowledge of or involvement in it.

THE COMMISSION FOUND NO EVIDENCE OF MS MADIKIZELA-MANDELA'S INVOLVEMENT AND AWAITS THE AMNESTY HEARING OF JOHN ITUMELENG DUBE.

## Assaults on Phumlile Dlamini

- 33 Ms Phumlile Dlamini, sister of the late Mr Kenneth Thole Dlamini (one of the original members of the MUFC, who was later killed by Mr Sizwe Sithole) told the Commission that she was assaulted by Ms Madikizela-Mandela and members of the MUFC in August and September 1988. Phumlile Dlamini was introduced to MUFC members by her late brother. She also claims that she had a relationship with Mr Johannes 'Shakes' Tau, a driver for Madikizela-Mandela. She alleged that Tau advised her that he had a relationship with Madikizela-Mandela, who confronted him upon learning of his relationship with Dlamini. Phumlile Dlamini told the Commission that she was pregnant when she was taken by Madikizela-Mandela and Tau into the Mandela home on the pretext that they were looking for her brother Thole. She said that she was then assaulted by Madikizela-Mandela. A week later she was allegedly picked up again by Madikizela-Mandela and other MUFC members, as Tau had disappeared, and again assaulted by Madikizela-Mandela. Later, she was repeatedly assaulted by MUFC members for a period of five hours which only stopped when Ms Zindzi Mandela-Hlongwane intervened. Mr Jerry Richardson confirms that he took her home.
- 34 When Phumlile advised her brother that she intended reporting the matter to the police, he begged her not to do so as he feared the reaction of Madikizela-Mandela and the MUFC. She did report the matter to Ms Dudu Chili.

35 Ms Madikizela-Mandela denied knowledge of or involvement in this incident.

THE COMMISSION FINDS THAT MS PHUMLILE DLAMINI WAS A CREDIBLE WITNESS AND THAT HER ALLEGATIONS OF ASSAULT AT THE HANDS OF MS MADIKIZELA-MANDELA AND OTHER MEMBERS OF THE MUFC IS CONSISTENT WITH THE *MODUS OPERANDI* OF OTHER INCIDENTS OF ASSAULT THAT HAD TAKEN PLACE AT THE MANDELA HOUSE. THE COMMISSION FINDS THAT, IN ALL PROBABILITY, DLAMINI WAS TAKEN FROM HER HOME ON MORE THAN ONE OCCASION IN AUGUST 1988, THAT MADIKIZELA-MANDELA HAD KNOWLEDGE OF THIS AND THAT SHE AND MEMBERS OF THE MUFC WERE RESPONSIBLE FOR ASSAULTING MS DLAMINI.

## Killing of Thole Dlamini

36 Mr Kenneth Thole Dlamini, one of the original members of the MUFC, was shot dead after attending a night vigil on the night of 16 October 1988. He had fallen out with powerful elements within the club after testifying against MUFC member Mr Absolom Madonsela. His testimony had led to the conviction of Madonsela.

37 Ms Madikizela-Mandela denies any direct knowledge of or involvement in the killing of Dlamini.

THE COMMISSION FINDS THAT MR THOLE DLAMINI, A FORMER MEMBER OF THE MUFC, WAS IN ALL PROBABILITY SHOT DEAD BY MR CLAYTON SIZWE SITHOLE ON 16 OCTOBER 1988 AS A RESULT OF BEING LABELLED AN INFORMER FOR GIVING EVIDENCE IN COURT AGAINST MR ABSOLOM MADONSELA, THE FORMER SECRETARY OF THE FOOTBALL CLUB. THE COMMISSION ALSO FINDS THAT SITHOLE WAS IN THE COMPANY OF ANOTHER MEMBER OF THE MUFC BY THE NAME OF 'BOTHILE' AT THE TIME OF THE SHOOTINGS. THE COMMISSION FINDS FURTHER THAT, AT THE TIME OF THE MURDER, SITHOLE WAS LIVING AT OR WAS A CLOSE ASSOCIATE OF THE MANDELA HOUSEHOLD AND WAS REGARDED BY MS MADIKIZELA-MANDELA AS A MEMBER OF HER FAMILY. WHILST MADIKIZELA-MANDELA WAS NOT PRESENT IN SOWETO AT THE TIME OF THE INCIDENT, THE COMMISSION RECEIVED EVIDENCE THAT SHE KNEW OF THE INCIDENT AND ATTEMPTED TO COVER IT UP BY ASSISTING POTENTIAL WITNESSES TO GO INTO HIDING. THE COMMISSION FINDS THAT MADIKIZELA-MANDELA FAILED TO DISCLOSE HER KNOWLEDGE OF THIS INCIDENT AND, IN ALL PROBABILITY, ASSISTED SITHOLE TO EVADE THE CRIMINAL JUSTICE SYSTEM.

THE COMMISSION FINDS THAT ABSOLOM MADONSELA (WHO ADMITTED AS MUCH BEFORE MEMBERS OF THE SAPS AND THE COMMISSION'S INVESTIGATION UNIT) ORDERED SIZWE SITHOLE TO EXECUTE DLAMINI FOR TESTIFYING IN COURT AGAINST HIM.

ABSOLOM MADONSELA (AKA 'BIZA') SAID THAT HE HAD AUTHORISED THE KILLING AND INFORMED THE COMMISSION THAT HE HAD APPLIED FOR AMNESTY FOR THIS INCIDENT. HE WAS TOLD THAT THE COMMISSION HAD NO RECORD OF ANY SUCH APPLICATION. THE CIRCUMSTANCES OF HIS MISSING APPLICATION ARE BEING INVESTIGATED BY THE AMNESTY COMMITTEE.

## **Deaths of Tebogo Maluleke, Sipho Mbenenge and Sergeant Stephanus Pretorius**

- 38 Mr Frans Tebogo Maluleke (aka 'Peter') and Mr Sipho Mbenenge were MK cadres who were temporarily accommodated at the house of MUFC 'coach' Mr Jerry Richardson. On 9 November 1988, following a tip-off from Richardson that the MK cadres were staying at his home, police came to the scene. In their attempt to capture the MK members, Security Branch member Sergeant Stephanus Pretorius – Richardson's police handler – was killed in unusual and unexplained circumstances. Both MK members were also killed.
- 39 This incident is also directly related to the subsequent disappearance of Lolo Sono and Sibuniso Tshabalala (see below).

THE COMMISSION FINDS THAT MS MADIKIZELA-MANDELA PLACED MK MEMBERS MALULEKE AND MBENENGIE IN THE HOUSE OF MR JERRY RICHARDSON FOR SAFEKEEPING. THE COMMISSION FINDS FURTHER THAT BOTH CADRES WERE KILLED AS A RESULT OF A POLICE OPERATION LAUNCHED ON THE BASIS OF A 'TIP-OFF' FROM JERRY RICHARDSON, WHO ADMITTED TO PROVIDING THE POLICE WITH INFORMATION IN THIS REGARD. RICHARDSON WAS RELEASED FROM CUSTODY FIFTEEN DAYS AFTER THIS INCIDENT.

THE COMMISSION NOTES THAT MADIKIZELA-MANDELA REFUSED TO ANSWER QUESTIONS DURING THE *IN CAMERA* HEARING ON WHETHER SHE HAD ANY SUSPICIONS REGARDING RICHARDSON'S QUICK RELEASE, IN THE LIGHT OF THE SERIOUS CIRCUMSTANCES IN WHICH HE HAD BEEN ARRESTED. THE COMMISSION FINDS THAT MADIKIZELA-MANDELA'S SUBSEQUENT TESTIMONY THAT SHE SIMPLY REGARDED RICHARDSON TO BE A VICTIM IN THIS INCIDENT IS NOT CREDIBLE.

THE COMMISSION FINDS THAT MADIKIZELA-MANDELA WAS NEGLIGENT IN THAT SHE FAILED TO INSTITUTE ENQUIRIES INTO THE DEATHS OF THE TWO CADRES AT THE TIME, AND THAT HER MISPLACED TRUST IN JERRY RICHARDSON WAS THE DIRECT CAUSE OF THEIR DEATH.

THE COMMISSION FURTHER FINDS THAT THE INVESTIGATION CONDUCTED BY THE SECURITY BRANCH INTO THE DEATH OF SERGEANT STEPHANUS PRETORIUS WAS RIDDLED WITH INCONSISTENCIES AND OBVIOUS OMISSIONS AND THAT ATTENTION SHOULD ALSO HAVE BEEN PAID TO THE ALLEGED UNCHARACTERISTIC AND ABERRANT ACTIONS OF PRETORIUS. SUSPICIONS OF THESE IRREGULARITIES ARE COMPOUNDED BY THE TESTIMONY OF CERTAIN SECURITY BRANCH OFFICERS, WHICH APPEARED AT TIMES TO BE LESS THAN CANDID. OF PARTICULAR CONCERN WAS THE TESTIMONY OF MR NORMAN LEMMER, THE INVESTIGATING OFFICER.

## **Abduction and killing of Lolo Sono and Anthony Sibuniso Tshabalala**

- 40 Directly related to the killings of Tebogo Maluleke and Sipho Mbenenge at Richardson's house were the abductions and killings of Lolo Sono and Sibuniso Tshabalala.

41 Tebogo Maluleke was a relative of the Sono family. Mr Nicodemus Sono, the father of Lolo Sono, returned from Transkei on 10 November 1988. On his arrival, Lolo informed him that both Sibuniso Tshabalala and he had received notes requesting them to report to the police station. They had visited Ms Madikizela-Mandela on 7 November to ask for advice, and she had torn up the notes and told them not to go to the police station. On the night of 8 November, Sono and Tshabalala stayed in Mfolo section of Soweto with Tshabalala's aunt. On Wednesday 9 November, Madikizela-Mandela arranged for them to go and see Tebogo Maluleke at Mzimhlope. Mr Sono testified that Lolo told him that when he got there, there was a police helicopter flying around Richardson's house. Tebogo was agitated and told them to leave. However, they stayed hidden at a nearby shop, from where they witnessed the whole incident.

42 When they went to police station later, they were told that they could not be seen on that day as the police were preparing for the funeral of Sergeant Pretorius who had been killed in the same incident as Tebogo Maluleke. Mr Sono was asked to formally identify Maluleke as he was a family relative. They were told to return on 14 November 1988.

43 Mr Sono testified that on Sunday 13 November, Mr Michael Siyakamela, Ms Madikizela-Mandela's temporary driver, came to his house. He was told that someone wanted to see him. When he went out, he saw Lolo sitting in the back of the minibus, with Madikizela-Mandela in the front seat. Lolo's face was swollen and bruised. Sono testified that Madikizela-Mandela informed him that Lolo was a police spy and that the MK cadres at Jerry Richardson's house had been killed because of him. Despite his pleas to Madikizela-Mandela to release his son, Lolo was taken away. Madikizela-Mandela allegedly told him: "I am taking this dog away. The movement will see what to do to him."

44 This was the last time that Mr Sono saw his son.

45 Ms Madikizela-Mandela has denied any knowledge of or involvement in the abductions, assaults and killing of Lolo Sono or Sibuniso Tshabalala.

46 The Commission obtained a statement from Mr Michael Siyakamela which verifies Mr Sono's version in almost all respects.

**THE COMMISSION FINDS THAT LOLO SONO WAS ABDUCTED BY MEMBERS OF THE MUFC ON 13 NOVEMBER 1988 AND WAS TAKEN TO THE DIEPKLOOF HOME OF MS MADIKIZELA-MANDELA WHERE HE WAS SEVERELY ASSAULTED. THE COMMISSION FINDS THAT MADIKIZELA-MANDELA**

HAD KNOWLEDGE OF THE ASSAULTS. THE COMMISSION FINDS FURTHER THAT MADIKIZELA-MANDELA, IN THE COMPANY OF MR MICHAEL SIYAKAMELA, MR GUYBON KUBEKA, MR RONNIE SEKHUKUNE AND OTHER MEMBERS OF THE MUFC, TOOK LOLO SONO TO THE HOME OF HIS PARENTS IN MEADOWLANDS, WHERE MADIKIZELA-MANDELA REFUSED TO HAND LOLO OVER TO HIS FATHER, DESPITE REQUESTS TO DO SO. THE COMMISSION FINDS FURTHER THAT MADIKIZELA-MANDELA INFORMED MR NICODEMUS SONO THAT HIS SON WOULD BE SENT AWAY SO THE MOVEMENT COULD DEAL WITH HIM. THE COMMISSION FINDS FURTHER THAT LOLO SONO WAS KILLED BY MR JERRY RICHARDSON, A CLOSE CONFIDANT OF MADIKIZELA-MANDELA. RICHARDSON WAS ALSO LOLO SONO'S FRIEND AND NEIGHBOUR AND THE COACH OF THE FOOTBALL CLUB. THE COMMISSION FINDS FURTHER THAT MADIKIZELA-MANDELA CONSISTENTLY DENIED ANY KNOWLEDGE OF THE WHEREABOUTS OF LOLO SONO AND MADE NO EFFORT TO LOCATE HIM.

THE COMMISSION FINDS THAT SIBUNISO TSHABALALA'S FATE WAS LINKED TO THAT OF LOLO SONO.

- 47 Ms Nomsa Tshabalala, Sibuniso's mother, testified that, on the evening of 13 November, members of the MUFC came to the house in search of Sibuniso, who was not at home at the time. When he returned, his family told him what had happened to Lolo Sono. He nevertheless refused to go into hiding. He went out on the morning of 15 November but did not return home.
- 48 The distraught parents of Lolo and Sibuniso visited Captain Potgieter at the Protea police station and informed him that Lolo had been taken by Ms Madikizela-Mandela and that Sibuniso was missing. They were instructed to report the matter to the Meadowlands police. Later that day, Ms Tshabalala was called by Sibuniso, who said only that he was with Lolo.

THE COMMISSION FINDS THAT ANTHONY SIBUNISO TSHABALALA WAS ASSAULTED AT THE MADIKIZELA-MANDELA HOUSE IN DIEPKLOOF AND WAS SUBSEQUENTLY MURDERED BY MR JERRY RICHARDSON SHORTLY AFTER THE LATTER'S RELEASE FROM DETENTION ON 25 NOVEMBER 1988. RICHARDSON WAS LIVING AT THE MADIKIZELA-MANDELA HOUSE AT THE TIME.

THE COMMISSION FINDS FURTHER THAT THE MOTIVE FOR THE ASSAULTS AND MURDER OF BOTH LOLO SONO AND SIBUNISO TSHABALALA WAS THAT THEY WERE ACCUSED OF BEING INFORMERS AND WERE PERCEIVED TO BE RESPONSIBLE FOR THE DEATH OF TEBOGO MALULEKE AND SIPHO MBENENGE AT RICHARDSON'S HOUSE ON 9 NOVEMBER 1988. THE COMMISSION FINDS FURTHER THAT THE ALLEGATIONS REGARDING BOTH SONO AND TSHABALALA WERE UNFOUNDED AND FALSE, AND THAT RICHARDSON HIMSELF WAS A POLICE INFORMER.

THE COMMISSION FINDS THAT MR JERRY RICHARDSON'S VERSION THAT THE YOUTHS WERE HELD AT THE MANDELA HOME FOR A PERIOD OF TWELVE OR MORE DAYS IS CONSISTENT WITH OTHER ABDUCTIONS IN THE SAME PERIOD UNDER REVIEW. RICHARDSON APPLIED FOR AMNESTY FOR MURDERING SONO AND TSHABALALA ON THE BASIS THAT HE RECEIVED ORDERS FROM MS MADIKIZELA-MANDELA TO DO SO. HOWEVER, THE COMMISSION FOUND NO EVIDENCE TO SUPPORT THIS AND FINDS THAT THESE KILLINGS SERVED RICHARDSON'S INTERESTS IN THAT THEY DEFLECTED SUSPICION AWAY FROM HIMSELF REGARDING HIS RESPONSIBILITY FOR THE DEATH OF THE MK CADRES AT HIS HOUSE.

THE COMMISSION FINDS THAT LOLO SONO AND SIBUNISO TSHABALALA WERE LAST SEEN ALIVE AT THE MANDELA HOME. THE COMMISSION FINDS THAT MADIKIZELA-MANDELA WAS INVOLVED IN LOLO SONO'S ABDUCTION AND KNEW THAT HE WAS KEPT ON HER PREMISES. THE COMMISSION FINDS, THEREFORE, THAT MADIKIZELA-MANDELA MUST ACCEPT RESPONSIBILITY FOR THE DISAPPEARANCE OF LOLO SONO AND SIBUNISO TSHABALALA.

THE COMMISSION FINDS THAT MEMBERS OF THE SOWETO POLICE WERE NEGLIGENT IN THEIR DUTY AND THAT, IF THEY HAD TAKEN QUICK AND DECISIVE ACTION REGARDING THE CHARGES LAID BY MR NICODEMUS SONO AND THE LATE MR TSHABALALA, BOTH LOLO SONO AND SIBUNISO TSHABALALA WOULD POSSIBLY STILL HAVE BEEN ALIVE.

- 49 The Commission and the SAPS mounted a joint exhumation in 1997, but were unable to locate any bodies at the site pointed out by Mr Jerry Richardson. The Attorney-General's office was requested to follow this up and examine a different site pointed out by Ms Xoliswa Falati.

### **Killing of Koekie Zwane**

- 50 Ms Koekie Zwane, the girlfriend of an MUFC member known as 'Bothile', died of multiple stab wounds on 18 December 1988. She was allegedly suspected of being an informer and was killed by Mr Jerry Richardson. Richardson applied for amnesty for the murder of Koekie Zwane and alleges that she was killed on Ms Madikizela-Mandela's instructions after being branded as an informer.
- 51 Ms Madikizela-Mandela denies any knowledge of or involvement in this incident.

THE COMMISSION FINDS THAT MS KOEKIE ZWANE'S REAL NAME WAS PRICILLA MOSEOU, AND THAT SHE WAS AN ASSOCIATE OF THE MANDELA HOUSEHOLD. THE COMMISSION FINDS THAT MR JERRY RICHARDSON WAS INVOLVED IN THE KILLING OF ZWANE AND THAT, IN ALL PROBABILITY, MEMBERS OF THE MUFC ASSISTED HIM WITH THE KILLING.

### **Abductions and assaults of Pelo Mekgwe, Thabiso Mono, Kenny Kgase and Stompie Seipei**

- 52 The events that occurred during the period late September 1988 to February 1989 resulted in one of the most serious crises ever experienced by the internal and external liberation movements. On 29 December 1989, four youths – Pelo Mekgwe, Thabiso Mono, Kenneth Kgase and Moeketsi Stompie Seipei – were abducted from the Methodist manse in Soweto and taken to the Mandela home in Diepkloof Extension. The youths were accused of engaging in sexual relations with the Reverend Paul Verryn, the priest who ran the manse, and Seipei was singled out and accused of being a police informer. All four youths were assaulted, Seipei severely.

53 In early January, Seipei's decomposing body was found in a river-bed on the outskirts of Soweto. His body and head were riddled with injuries and he had been stabbed in the neck three times.

54 For two weeks in early January, senior religious and community leaders negotiated with Ms Madikizela-Mandela to secure the release of the other youths held at the house. Madikizela-Mandela denied that they were being held against their will and stated that she had rescued them from sexual abuse at the manse. When the youths were eventually released and the story spread to the media, Madikizela-Mandela issued several statements and conducted interviews in which she attacked the church for orchestrating a massive cover-up. The war of words continued into February. Following the identification of Stompie Seipei's body, several members of the MUFC, including Mr Jerry Richardson, were arrested and charged with murder.

55 Just prior to these arrests, both the MDM and the ANC issued statements strongly criticising Ms Madikizela-Mandela and calling for the immediate disbanding of the football club.

56 Evidence to the Commission, by both perpetrators and victims, confirms that members of the MUFC and associates of the Mandela household abducted Pelo Mekgwe, Thabiso Mono, Kenny Kgase and Stompie Seipei from the Methodist manse in Orlando West on the evening of 29 December 1989.

57 Ms Madikizela-Mandela denied involvement in the abductions, assault and torture of the four youths and said that she was unaware that they were being held against their will. She alleges that she received false information from Jerry Richardson and Xoliswa Falati in this regard, and that she released the youths following the approach of various community leaders.

**THE COMMISSION FINDS THAT THABISO MONO, PELO MEKGWE , KENNETH KGASE AND MOEKETSI STOMPIE SEIPEI WERE ABDUCTED FROM THE METHODIST MANSE IN ORLANDO ON 29 DECEMBER 1988 BY MR JERRY RICHARDSON, MEMBERS OF THE MUFC, MR JOHN MORGAN, MR KATIZA CEBEKHULU AND MS XOLISWA FALATI ON THE INSTRUCTIONS OF MS MADIKIZELA-MANDELA. THE COMMISSION FINDS FURTHER THAT THE ABDUCTED YOUTHS WERE SUBSEQUENTLY TAKEN TO MADIKIZELA-MANDELA'S DIEPKLOOF HOME, WHERE ALL FOUR YOUTHS WERE ASSAULTED IN THE BACK ROOMS OF THE PREMISES BY JERRY RICHARDSON, MEMBERS OF THE MUFC, XOLISWA FALATI AND KATIZA CEBEKHULU.**

**THE COMMISSION FINDS FURTHER THAT MADIKIZELA-MANDELA WAS PRESENT AT HER HOME AND NOT IN BRANDFORT AS SUBMITTED IN HER TRIAL, AND THAT SHE WAS PRESENT DURING THE ASSAULTS, AND INITIATED AND PARTICIPATED IN THE ASSAULTS.**

THE COMMISSION FINDS THAT STOMPIE SEIPEI WAS FALSELY ACCUSED OF BEING A POLICE INFORMER AND WAS CONSEQUENTLY SUBJECTED TO THE MOST SEVERE ASSAULTS AND TORTURE.

THE COMMISSION FINDS THAT THE FOLLOWING PEOPLE WERE AMONGST THOSE INVOLVED IN THE ASSAULTS ON THE FOUR YOUTHS: MS WINNIE MADIKIZELA-MANDELA, MR JERRY RICHARDSON, MS XOLISWA FALATI, MS NOMPU MELELO FALATI, MR KATIZA CEBEKHULU, MS SKHUMBUZO MTHSHALI, MR GIFT MABELANE, MR JABU SITHOLE AND MR BRIAN MABUZA. THE COMMISSION FURTHER FINDS THAT MR GUYBON KHUBEKA WAS INVOLVED IN A SUBSEQUENT ASSAULT ON STOMPIE SEIPEI.

THE COMMISSION FINDS THAT THE ALLEGATIONS MADE BY CEBEKHULU, XOLISWA FALATI AND MADIKIZELA-MANDELA THAT THE REVEREND PAUL VERRYN HAD SEXUALLY ABUSED YOUTHS RESIDENT AT THE METHODIST MANSE WERE UNFOUNDED AND WITHOUT ANY MERIT. THE COMMISSION FINDS ALSO THAT MADIKIZELA-MANDELA DELIBERATELY AND MALICIOUSLY SLANDERED VERRYN AND THE CHURCH PUBLICLY IN AN ATTEMPT TO DIVERT ATTENTION AWAY FROM HERSELF AND THE ASSOCIATES OF HER HOUSEHOLD.

THE COMMISSION FINDS THAT XOLISWA FALATI WAS RESPONSIBLE FOR THE DISSEMINATION TO MEMBERS OF THE MANDELA HOUSEHOLD OF UNTESTED ALLEGATIONS ABOUT VERRYN, AS WELL AS ALLEGATIONS THAT SEIPEI WAS AN INFORMER.

THE COMMISSION FINDS FURTHER THAT MADIKIZELA-MANDELA ACTIVELY RESISTED REPEATED EFFORTS BY THE MANDELA CRISIS COMMITTEE AND OTHER COMMUNITY AND RELIGIOUS LEADERS TO SECURE THE RELEASE OF THE YOUTHS BEING HELD AT HER HOUSE.

## Killing of Stompie Seipei

- 58 Ms Madikizela-Mandela has denied any knowledge of or involvement in the killing of Stompie Seipei on 1 January 1989.
- 59 The Commission received three versions of this killing. Jerry Richardson, who was convicted for the murder and applied for amnesty, claimed that he killed Seipei on Madikizela-Mandela's instructions. Katiza Cebekhulu claimed that he witnessed Madikizela-Mandela stabbing Stompie Seipei, a version supported by John Morgan, who testified that he was instructed to dump Seipei's body. The third version was presented in the form of an unsigned, typed section 29 detention statement from Mr Johannes 'Themba' Mabotha, a Vlakplaas *askari* who frequented the Mandela home, which states that he was present at a meeting when Richardson informed Madikizela-Mandela that he had killed Seipei. Although this statement claims that Madikizela-Mandela was shocked at what Richardson had told her, it goes on to allege that she was directly involved in an attempt to spread misinformation that Seipei was alive and had been seen in a refugee camp in Botswana. A further version, suggested by former Security Branch policeman Paul Erasmus, is that Richardson killed Seipei because he (Seipei) had found out that Richardson was an informer.

60 The various versions, with the exception of that of Erasmus, all implicate Ms Madikizela-Mandela, either directly or indirectly, in Seipei's murder or its attempted cover-up. The Commission has not been able to establish conclusively the veracity of any of these versions, including Erasmus's. Each version was explored in the Investigation Unit's report to the Commission. A number of other possibilities also exist, including the option that Seipei was killed because his injuries were so severe.

IN THE LIGHT OF THE CORROBORATIVE TESTIMONY THAT PLACES MS MADIKIZELA-MANDELA ON THE SCENE, AND IMPLICATES HER IN THE ASSAULTS, THE COMMISSION FINDS THAT IN ALL PROBABILITY SHE WAS AWARE OF SEIPEI'S CONDITION AND FAILED, AS HEAD OF THE HOUSEHOLD, TO TAKE RESPONSIBILITY BY ARRANGING MEDICAL TREATMENT FOR SEIPEI (AND THE OTHER YOUTHS), COMPOUNDING HER OWN COMPLICITY.

THE COMMISSION FINDS THAT MADIKIZELA-MANDELA'S SUBSEQUENT PUBLIC STATEMENTS ABOUT SEIPEI'S BODY AND HER ALLEGED LINK THROUGH MABOTHA TO THE RUMOURS OF SEIPEI BEING SEEN AT THE DUKWE REFUGEE CAMP IN BOTSWANA WAS AN ATTEMPT TO DEFLECT ATTENTION AWAY FROM HERSELF AND HER HOUSEHOLD BY DISSEMINATING FALSE INFORMATION REGARDING SEIPEI. THE COMMISSION FINDS THAT MADIKIZELA-MANDELA FAILED TO DISCLOSE TO COMMUNITY LEADERS THAT SEIPEI HAD BEEN AT HER HOUSE.

THE COMMISSION FINDS THAT STOMPIE SEIPEI WAS LAST SEEN ALIVE AT THE HOME OF MADIKIZELA-MANDELA AND THAT SHE WAS RESPONSIBLE FOR HIS ABDUCTION FROM THE METHODIST MANSE AND WAS NEGLIGENT IN THAT SHE FAILED TO ACT RESPONSIBLY IN TAKING THE NECESSARY ACTION REQUIRED TO AVERT HIS DEATH.

## **Attempted killing of Lerotodi Ikaneng**

61 Mr Lerotodi Ikaneng and Mr Gift Ntombeni, former members of the MUFC, testified that Ms Madikizela-Mandela assaulted them and accused them of being informers approximately six weeks before the attempt on Ikaneng's life on 3 January 1989 by members of the MUFC and associates of the Mandela household.

62 Ikaneng made a statement to the police regarding Mr Sizwe Sithole's involvement in the killing of Mr Thole Dlamini, and this made him a target for the MUFC. It is therefore most probable that Ikaneng's life was at risk from the MUFC and, in this particular case, from the MUFC's patrons, Ms Madikizela-Mandela and her daughter, Ms Zindzi Mandela-Hlongwane. Ikaneng alleged that it was Mandela-Hlongwane who accused him of being an informer. It is probable that she was upset that Ikaneng had implicated her boyfriend, Sithole. According to Ikaneng, Mandela-Hlongwane had already accused him and several other MUFC members of being 'sell-outs' when he was still a member of the MUFC.

63 Jerry Richardson confirmed that he led the attack on Ikaneng on 3 January, accompanied by other MUFC members and the three abducted youths. Richardson and Gift Ntombeni corroborated Ikaneng's allegation that he was labelled as an informer by Ms Madikizela-Mandela and/or her daughter. Richardson claimed that he had killed Ikaneng and that he was congratulated by Madikizela-Mandela when he told her this.

64 There is no apparent motive for Ikaneng to implicate Ms Madikizela-Mandela falsely in the attempts on his life. He had already testified against Richardson, who stabbed him in the throat. There is no evidence to suggest that Ikaneng was working for the police. Both Ikaneng and Ntombeni had insight into how the MUFC operated and knew of Madikizela-Mandela's close relationship with it.

65 Ms Madikizela-Mandela denied knowledge of the attack on Lerotodi Ikaneng and the alleged reasons for it.

THE COMMISSION FINDS THAT MR LEROTODI IKANENG, ONE OF THE ORIGINAL MEMBERS OF THE MUFC, WAS RESIDENT AT THE ORLANDO WEST HOME OF MS MADIKIZELA-MANDELA. THE COMMISSION FINDS FURTHER THAT IKANENG LEFT THE MADIKIZELA-MANDELA HOUSEHOLD IN AUGUST 1988, FOLLOWING THE ARSON ATTACK ON THE PROPERTY. THE COMMISSION FINDS FURTHER THAT MEMBERS OF THE MUFC MADE SEVERAL ATTEMPTS ON IKANENG'S LIFE FOLLOWING HIS DEPARTURE FROM THE MANDELA HOUSEHOLD. HE WAS ACCUSED OF BEING A POLICE INFORMER AFTER PROVIDING THE POLICE WITH A STATEMENT NAMING SIZWE SITHOLE AS THE MURDERER OF MR THOLE DLAMINI.

THE COMMISSION FINDS THAT MADIKIZELA-MANDELA WAS INVOLVED IN AND RESPONSIBLE FOR THE ATTEMPTED MURDER OF IKANENG.

### Killing of Dr Abubaker Asvat

66 Dr Abubaker Asvat was shot dead in his surgery in Rockville, Soweto, in the early evening of 27 January 1989. Mr Thulani Dlamini and Mr Zakhele Mbatha were subsequently charged and convicted for his murder. Media reports, speculation and a confession by Dlamini suggested that Ms Madikizela-Mandela was somehow involved in the murder.

67 Confusing and contradictory allegations by the convicted murderers, coupled with unsubstantiated allegations from Mr Katiza Cebekhulu, did not provide the Commission with any clarity regarding the Asvat murder and the alleged involvement of Ms Madikizela-Mandela. Indeed, the entire case remains unsolved as there are numerous statements from Dlamini as far back as 1980, in which he consistently maintained that Madikizela-Mandela offered him money to kill Dr

Asvat. These are riddled with contradictions, which he claimed to have inserted deliberately in each version. Neither Dlamini nor Mbatha, who actually shot Asvat, provided the Commission with credible testimony or coherent reasons for the contradictions in their various versions.

- 68 The allegation that Dr Asvat saw Stompie Seipei before his murder and was a witness to his condition is supported by direct and indirect witness testimony. It is, however, denied by Ms Madikizela-Mandela. Other witnesses who were at the Mandela home also denied that they saw Dr Asvat at the house during this period.
- 69 Quotations attributed to Ms Madikizela-Mandela in the *Sunday Times* two days after the murder, linking Asvat's death to her allegations of Verryn's sexual abuse of the boys, have been rejected by Madikizela-Mandela as fabrication. This denial is part of a broader pattern of denials regarding quotations and stories attributed to her in the media at this time. It is, however, noteworthy that she made no attempt during this period, or subsequently before the hearings, to deny that she had ever said these things.
- 70 The death of Dr Abubaker Asvat, and the subsequent linking of his death with the sexual abuse allegations surrounding the Reverend Paul Verryn, raised serious concerns which the Commission was unable to unravel. The Commission was not, however, able to verify allegations that Ms Madikizela-Mandela was involved in Dr Asvat's murder and is still unsatisfied as to the reasons why media reports linked the two incidents.

THE COMMISSION FINDS THAT THE MURDER AND ROBBERY DETECTIVES INVESTIGATING DR ASVAT'S MURDER WERE HASTY IN THEIR ASSUMPTIONS THAT THIS WAS A STRAIGHTFORWARD CASE OF ROBBERY, AND WERE NEGLECTFUL IN THEIR FAILURE TO EXAMINE THE APPARENT CONNECTION BETWEEN DLAMINI AND CEBEKHULU'S STATEMENTS. IT IS DIFFICULT TO UNDERSTAND HOW SUCH AN OMISSION COULD HAVE BEEN MADE, UNLESS ONE ACCEPTS THAT INFORMATION OF THIS NATURE WAS NOT SHARED IN PRIORITY INVESTIGATIONS WITHIN THE SAME POLICE UNIT. IN THIS CONTEXT, THE INVESTIGATION ALSO FAILED TO ACCESS POTENTIALLY VITAL INFORMATION FROM THE SECURITY BRANCH AND ITS RECORDS OF TELEPHONE TRANSCRIPTS AND OTHER INTELLIGENCE INFORMATION.

### **Killing of Maxwell Madondo and attempted killing of Sibusiso Chili and Lerotodi Ikaneng**

- 71 Mr Maxwell Madondo was killed on 13 February 1989. Several members of the Chili family, Mr Lerotodi Ikaneng and two others were charged with murder. Central to their defence was the assertion that Madondo had been killed in self-

defence and that he had been sent from the Mandela house with two others to kill Mr Sibusiso Chili and Ikaneng. In somewhat unusual circumstances, the State accepted a statement from Mr Katiza Cebekhulu in which he claimed to have accompanied Madondo on a ‘mission’ to kill Chili and Ikaneng on the instructions of Ms Madikizela-Mandela.

- 72 The assertion that the MUFC wanted to kill these two was supported by an alleged hit list found on the Mandela property during a police raid on 19 February. This list contained the names of Chili, Ikaneng and other youths, including Ms Albertina Sisulu’s nephews, who had also had problems with the football club. Inexplicably, no subsequent investigations were conducted into this admission. The court found Sibusiso Chili guilty of murder, but accepted the mitigating circumstances that his life was under threat at the time. He was sentenced to six years’ imprisonment.
- 73 Testimony from several witnesses, including a statement from a former MUFC member who warned both Ikaneng and the Chili family about the impending attack, supports the allegation that they were targets of the MUFC.
- 74 Several witnesses testified that Ms Madikizela-Mandela came to the scene after Madondo’s death. Her former driver, John Morgan, testified that he drove her to the scene.
- 75 Ms Madikizela-Mandela acknowledged that she knew Madondo, but denied any knowledge of this incident, the circumstances surrounding his death or the identity of the killer.

THE COMMISSION FINDS THAT MADONDO WAS KILLED AS A RESULT OF ACTIONS TAKEN BY THE MEMBERS OF THE MUFC AND OTHER ASSOCIATES OF THE MANDELA HOUSEHOLD TO ABDUCT AND/OR KILL SIBUSISO CHILI. THE COMMISSION CANNOT CONFIRM THAT MS MADIKIZELA-MANDELA WAS DIRECTLY INVOLVED IN THE DECISION THAT RESULTED IN THE ACTIONS TAKEN TO APPREHEND CHILI.

THE COMMISSION FINDS, HOWEVER, THAT ON A BALANCE OF PROBABILITIES MS MADIKIZELA-MANDELA DID GO TO THE SCENE OF THE MURDER AS ALLEGED BY THE WITNESSES.

### Killing of Finkie Msomi

- 76 On the evening of 22 February 1989, the home of Ms Dudu Chili (mother of Sibusiso Chili) was attacked and burnt down. Her thirteen-year-old niece Finkie Msomi was shot dead in the attack. Mr Katiza Cebekhulu alleged that he was present at a meeting at which Ms Madikizela-Mandela said that Madondo’s death had to be avenged and that the Chili family were ‘sell-outs’.

77 An internally trained MK member and associate of the Mandela household, Mr Charles Zwane, was convicted for the killing. He denied any involvement in the incident and claimed that members of the Soweto Murder and Robbery Unit tortured him into a confession.

THE COMMISSION FINDS THAT FINKIE MSOMI, A MEMBER OF THE CHILI FAMILY, WAS MURDERED BY AN MK COMMANDER AND MEMBERS OF THE MUFC IN A RETALIATORY ATTACK FOR THE KILLING OF MAXWELL MADONDO. THE COMMISSION FINDS FURTHER THAT THE HOUSE OF MS DUDU CHILI, THE MOTHER OF SIBUSISO CHILI, WAS PETROL-BOMBED AND SET ALIGHT BY MEMBERS OF THE MUFC AND THE AFORESAID MK COMMANDER, ALSO IN REVENGE FOR THE KILLING OF MAXWELL MADONDO BY MEMBERS OF THE MUFC AND /OR ASSOCIATES OF THE MANDELA HOUSE.

78 Although the club was theoretically disbanded at this stage, a number of youths associated with the club and MK remained close to the Mandela household. Although one cannot discount the possibility that Zwane was tortured by members of the Murder and Robbery Unit, he was not convicted for the killing of Finkie Msomi on the basis of a confession alone. In mitigation, Zwane's advocate accepted that the attack on the Chili house was motivated by revenge and that Zwane was heavily influenced by the dominant personality of Ms Madikizela-Mandela.

79 Ms Madikizela-Mandela denied any knowledge of the circumstances surrounding or involvement in the decision to attack the Chili home. All she knew, she said, was what she read in the newspapers. She denied any conflict between herself and Ms Dudu Chili.

80 Ms Madikizela-Mandela's apparent ignorance about the circumstances and people involved in the attack on the Chilis' house, as well as the fact that it was related directly to the killing of another person who stayed at her house, is improbable. It is not feasible, in the context of the community condemnation of her club and the close proximity of a number of community leaders as a result of these problems, that she could have been so isolated from the events of mid- to late February. Although it is quite possible that she had little control over the actions of some of the youths associated with her and her household, it is improbable that she was as unaware of the events and circumstances as she claims.

## **Assault and murder of Themba Mabotha**

81 Mr Themba Mabotha was allegedly an *askari* who absconded from Vlakplaas in 1988 and subsequently became an associate of the Mandela household. He was allegedly involved in the assaults on the youths abducted from the Methodist manse and also a potential witness in the Seipei murder investigation.

82 Following his arrest and assault by members of the Soweto Security Branch and Vlakplaas, Mabotha was detained for a period of almost eight months. According to available detention registers, Mabotha was detained in April and released in October. Security policemen involved in his arrest, however, have testified that he was arrested in February. No explanation has been given for the six- to seven-week period between the time of his arrest and his registration as a detainee.

83 According to Captain Jan Potgieter, Mabotha was to have been used as a State witness against Ms Madikizela-Mandela in a pending treason trial for which he (Potgieter) had been conducting investigations for over two years. He testified that the failure of the Witwatersrand Attorney-General to make a decision regarding this prosecution had left him in a dilemma, as he was unable to obtain an extension on Mabotha's detention. He wanted him to be available should a subsequent decision be made to prosecute Madikizela-Mandela, and said that he requested Colonel Eugene de Kock to keep him at Vlakplaas. He claimed that, at the time, he had no idea of the nature of Vlakplaas operations.

84 Eugene de Kock testified, however, that he had been contacted by Potgieter and had inferred, from the tenor of their conversation, that Mabotha was to be killed. De Kock reasoned that Mabotha had been involved in shooting two policemen and that "it would happen again and had to be prevented". De Kock explained that he did not receive an order from anyone to kill Mabotha, but that Potgieter's intentions were clear. They had worked together in *Koevoet* in South West Africa and he said that he and Potgieter "understood each other well".

85 Both Potgieter and De Kock applied for amnesty for Mabotha's death. Their versions are conflicting and no finding had been made at the time of reporting as the matter was still be heard.

## **Death of Sizwe Sithole**

86 Mr Sizwe Sithole died in police custody at John Vorster Square on 3 February 1990. A Judicial Commission of Inquiry found that Sithole had committed suicide. Evidence before the Commission showed that Sithole had admitted his involvement in several murders (including the murder of Mr Thole Dlamini) and had also implicated Ms Madikizela-Mandela and Ms Mandela-Hlongwane. Details of these allegations were written down during five hours of interrogation on the day of Sithole's death. The notes taken down by Jan Augustyn, the policeman involved in the interrogation, were never made public. The Commission has not been able to gain access to these notes.

87 Mr Katiza Cebekhulu alleged that he had been instructed by Ms Madikizela-Mandela to tip off the police regarding illegal weapons in Sithole's possession.

88 Ms Madikizela-Mandela has categorically denied Cebekhulu's allegations.

THE COMMISSION FOUND NO EVIDENCE TO SUPPORT CEBEKHULU'S ALLEGATION AGAINST MS MADIKIZELA-MANDELA. WITHOUT THE EVIDENCE PRESENTED TO THE COMMISSION OF INQUIRY, THE COMMISSION WAS UNABLE TO MAKE ANY FINDINGS REGARDING THE ADMISSIONS AND ALLEGATIONS ALLEGEDLY MADE BY SITHOLE.

## Abduction of Katiza Cebekhulu

89 Mr Katiza Cebekhulu, a co-accused of Ms Madikizela-Mandela at her trial for kidnapping and assault, disappeared shortly before the trial and re-emerged in a Zambian prison, where he was detained without trial for almost three years.

90 Ms Madikizela-Mandela has denied any knowledge of or involvement in the abduction of Cebekhulu.

91 Katiza Cebekhulu was taken out of the country and placed illegally in a Zambian prison at the request of the ANC with the assistance of the Zambian authorities. Former Zambian President Kenneth Kaunda admitted that the ANC requested his assistance with Cebekhulu. Although he indicated that this was done for his own safety, it is more likely that it was done to protect Ms Madikizela-Mandela from his possible disclosures and avoid the embarrassment that he would cause to the ANC. The ANC had good reason to believe that the authorities would try to use any information disclosed by Cebekhulu, as evidenced by the disclosure of STRATCOM documents revealing the dissemination of disinformation regarding the ANC by the SAP during this period.

92 The ANC has never taken responsibility for its actions regarding Cebekhulu. Ms Madikizela-Mandela's assertion that she was not directly involved in at least the initial hand-over of Cebekhulu is contradicted by the testimony of both Morgan and Cebekhulu. Advocate Semenya attempted to discredit Cebekhulu's version on the basis that he said 'Shell House' instead of 'Sauer Street' – a relatively minor detail, considering that there is no other version available as to how he was placed in the ANC's custody. Madikizela-Mandela's contention that she had nothing to gain from Cebekhulu's incarceration is not credible, as her interests would appear to be the very reason that he was taken out of the country.

## ■ THEMES

### The Mandela United Football Club

93 The Mandela United Football Club (MUFC) was the source of considerable violence and controversy between 1987 and 1989. Whilst Ms Madikizela-Mandela denied this, both the liberation movement externally and the MDM internally recognised it and stated so clearly in their statements of 16 February 1989. In the face of criticism and concerns raised by senior leaders of the liberation movement both at home and in exile, as well as the outrage of the local community, it is difficult to understand why she failed to recognise the threat that the club was posing and how damaging this was to herself. Her reluctance to disband the club is inexplicable.

94 Ms Madikizela-Mandela denied in her testimony that there was a close relationship between her and the youths who lived on or frequented her property. However, the testimony of former MUFC members, and of individuals who tried to dissuade her from this association, indicates that Madikizela-Mandela took a much more active interest than she has admitted. The MDM statement affirms this:

*Not only is Mrs Mandela associated with the team, in fact the team is her own creation.*

### Madikizela-Mandela's relationship with community structures

95 The evidence before the Commission clearly shows that Ms Madikizela-Mandela was not accountable to any of the internal community or political structures at the time. Repeated efforts by the Mandela Crisis Committee and other community leaders to bring her into line were either ignored or repudiated. The MDM in their statement went on to say:

*We are of the view that Mrs Mandela has abused the trust and confidence which she has enjoyed over the years. She has not been a member of any of the democratic structures of the UDF [or] Cosatu and she has often acted without consulting the democratic movement.*

*Numerous efforts have been made to reconcile the conflict between Mrs Mandela and the community. The last of these efforts was the formation of the crisis committee of some of our most respected members. On every occasion, Mrs Mandela has chosen to disregard the sentiments of the community.*

96 It is, however, evident that the internal leadership was stymied and finally reacted in the way they did because Ms Madikizela-Mandela's intransigence had given them no other option.

97 In a statement released externally, the ANC said the following:

*In the light of reports about its activities in the recent past, our organisation, complementing the initiatives of leading personalities of the Mass Democratic Movement, tried to use its influence to bring about the disbanding of the group. Unfortunately our counsel was not heeded by Comrade Winnie Mandela. The situation has been further complicated by the fact that she did not belong to any structures and therefore did not benefit from the discipline, counselling and collectivity of the Mass Democratic Movement.*

## **Denials and allegations**

98 Ms Madikizela-Mandela's testimony before the Commission was characterised by a blanket denial of all allegations against her and of the attempts by the community leadership to defuse the situation arising from the abduction debacle. A detailed examination of some of these denials is contained in the investigation report. The picture that she sought to paint of herself was that she was right and that everybody else was wrong. She called her former associates "ludicrous" and "ridiculous" and failed to recognise that these were the same individuals who had tried to support her in the face of criticism from community leaders.

99 These denials were complemented by a series of allegations and insinuations about individuals and structures that provided information about her role and involvement in the events of this period. She refused to take responsibility for any wrongdoing. It was only at the end of her testimony, under great pressure from Archbishop Desmond Tutu, presiding over the proceedings, that she reluctantly conceded that "things had gone horribly wrong".

## **The South African Police**

100 Evidence before the Commission shows that the Security Police were involved in a concerted disinformation campaign against the ANC and the South African Communist Party, and that Ms Madikizela-Mandela was a prominent target in the Witwatersrand region. Security policemen from Soweto admitted that she had been under constant electronic surveillance by means of telephone taps

and bugs. They also admitted that Mr Jerry Richardson had acted as an informer. It is probable that other informers had also infiltrated the club.

- 101 The testimony of former Soweto security policemen was, however, characterised by a lack of candour in disclosing the nature of their operations regarding Ms Madikizela-Mandela, the MUFC and other associates of the Mandela household.
- 102 Although the Security Branch was aware of the close relationship between the MUFC and MK, none of the officers who testified acknowledged that the football club was of particular importance to them. The officer in charge of investigations regarding Ms Madikizela-Mandela testified that he was totally unaware that one of his colleagues was handling an informer inside the football club. All the Soweto policemen denied involvement in any STRATCOM activities against Madikizela-Mandela, contradicting the testimony of Security Branch officers from Pretoria and the Witwatersrand division who testified that she was a prominent subject for STRATCOM operations.
- 103 The testimony of former Soweto Security Branch members created the impression that they were at best uncoordinated and unprofessional. Having admitted that Ms Madikizela-Mandela was the most high-profile political figure in their jurisdiction, they were virtually unable – with the exception of one or two witnesses – to provide any details regarding their activities concerning her, apart from a few items that were included verbatim in each of their written submissions.
- 104 Like their former Murder and Robbery Unit colleagues, they denied adopting a strategy of lenience in regard to cases involving Madikizela-Mandela and asserted that the responsibility for decisions regarding these investigations rested with the Attorney-General. There was a general admission that one had to be extremely cautious when dealing with the Madikizela-Mandela. The Commission was left with the distinct impression that the Attorney-General was at pains not to prosecute her. Madikizela-Mandela's subsequent prosecution in the kidnapping trial, albeit over twenty-seven months after the abductions, suggests that the authorities had been left no other option in the light of the revelations of Richardson's trial the previous year. Strategic decisions with regard to the investigation and prosecution of Madikizela-Mandela appear to have been influenced strongly by the political circumstances and sensitivities of this period.
- 105 It is also evident that the chaos emanating from the Mandelas' backyard had useful political ramifications for the police, as it created a discord within the q liberation movement that the authorities themselves had never been able to achieve.

106 Findings against the police will be made once the amnesty hearings of police members have been completed.

## The ANC

107 Although the Commission took into consideration the prevailing circumstances of the time, the ANC must bear some responsibility for not taking a more determined stance regarding the controversy surrounding Ms Madikizela-Mandela, particularly in the period following the unbanning of the organisation. The apparent complicity of elements within the ANC to obstruct the course of justice by removing witnesses and co-accused in the kidnapping and assault trial is a case in point.

## Winnie Madikizela-Mandela's attitude towards the Commission

108 Madikizela-Mandela chose not to submit a statement to the Commission detailing the human rights violations she suffered at the hands of the apartheid government and its security forces. She indicated during her first *in camera* hearing in September 1997 that she had intended to do this, but had changed her mind as a result of the treatment she received at the hands of the Commission. She was particularly upset that she had learnt of her pending *subpoena* through the media, and was disconcerted that she had been *subpoenaed* and not invited to appear before the Commission. She considered this a hostile and unnecessary action. In this regard, the Commission handled the matter badly and must apologise to Ms Madikizela-Mandela. The Commission itself recognises the enormous contribution that she made to the liberation struggle. For over two decades she suffered anguish in her separation from her husband, as well as persecution, banishment, imprisonment, torture and harassment at the hands of the former government.

109 During the public hearings, Madikizela-Mandela made strong inferences that the Commission had colluded with the ANC in arranging for the hearing to coincide with the pending ANC national conference and that this was part of a wider conspiracy to undermine her attempts to become the Deputy-President of the ANC. The Commission denied this allegation emphatically and reaffirms that position. It should also be pointed out that Madikizela-Mandela herself requested a public hearing. The dates for the hearing were settled with her legal representatives.

110 Ms Madikizela-Mandela was a reluctant witness at both the *in camera* and the public hearings. While the Commission was obliged on occasion to present to her allegations that may have appeared far-fetched, it became evident at times that she regarded

this as a personal vendetta being waged against her by the Commission. This might also explain her contemptuous attitude towards certain witnesses and her reprimands to those who asked her questions that she did not like.

THE COMMISSION FINDS THAT MS MADIKIZELA-MANDELA WAS CENTRAL TO THE ESTABLISHMENT AND FORMATION OF THE MUFC. THE COMMISSION FINDS THAT CLUB DEVELOPED INTO A PRIVATE VIGILANTE UNIT OPERATING AROUND MADIKIZELA-MANDELA AND FROM HER HOUSES IN BOTH ORLANDO WEST AND DIEPKLOOF. THE COMMISSION FINDS THAT THE ARSON ATTACK ON THE MANDELA HOME IN ORLANDO WEST IN JULY 1988 WAS A MANIFESTATION OF THE COMMUNITY'S ANGER AGAINST MADIKIZELA- MANDELA AND THE FOOTBALL CLUB. THE COMMISSION FINDS THAT POLITICAL, COMMUNITY AND CHURCH LEADERS REQUESTED MADIKIZELA-MANDELA TO DISBAND THE FOOTBALL CLUB. THESE REQUESTS WERE NOT ACCEDED TO AND THE LEADERS WERE SCORNED BY MADIKIZELA-MANDELA.

THE COMMISSION FINDS THAT THE MUFC WAS INVOLVED IN A NUMBER OF CRIMINAL ACTIVITIES IN THE COMMUNITY, INCLUDING KILLING, TORTURE, ASSAULTS AND ARSON. THE COMMISSION FINDS THAT MS MANDELA WAS AWARE OF THE CRIMINAL ACTIVITY AND THE DISQUIET IT CAUSED IN THE COMMUNITY AND DELIBERATELY CHOSE NOT TO ADDRESS THE PROBLEMS EMANATING FROM THE FOOTBALL CLUB.

THE COMMISSION FINDS THAT THOSE WHO OPPOSED MADIKIZELA-MANDELA AND THE MUFC, OR DISSENTED FROM THEM, WERE BRANDED AS INFORMERS, THEN HUNTED DOWN AND KILLED. THEIR LABELLING AS INFORMERS WAS DEEMED TO JUSTIFY THESE KILLINGS.

THE COMMISSION FINDS THAT MEMBERS OF THE FOOTBALL CLUB OPERATED FROM MADIKIZELA-MANDELA'S HOUSE AND THAT SHE HAD KNOWLEDGE OF THE CLUB MEMBERS' ACTIVITIES AND/OR AUTHORISED AND/OR SANCTIONED THEM.

THE COMMISSION FINDS MS WINNIE MADIKIZELA MANDELA POLITICALLY AND MORALLY ACCOUNTABLE FOR THE GROSS VIOLATIONS OF HUMAN RIGHTS COMMITTED BY THE MUFC. THE COMMISSION FINDS THAT MS MADIKIZELA-MANDELA FAILED TO ACCOUNT TO THE COMMUNITY AND POLITICAL STRUCTURES. THE COMMISSION FINDS THAT MADIKIZELA-MANDELA WAS RESPONSIBLE, BY OMISSION, FOR THE COMMISSION OF GROSS VIOLATIONS OF HUMAN RIGHTS.

## ■ CONCLUSIONS

- 111 There can be no doubt that Ms Madikizela-Mandela was central to the establishment and formation of the MUFC. Club members were involved in at least eighteen killings, for which many of them are still serving prison sentences. Many of the operations which led to the killings were launched from her homes. Witnesses who appeared before the Commission implicated her in having known of these matters, in having actively participated in assaults or in having assisted in cover-ups and obstructing the course of justice. She denied all these allegations. In a number of incidents, people were labelled as informers, which 'legitimated' their execution by MUFC members. In this context, the Commission cannot ignore the paranoia that existed at the time regarding informers. There is no doubt that

being under constant surveillance and living under siege may have made a considerable contribution to what eventually happened.

- 112 What is tragic is that so heroic a figure as Ms Madikizela-Mandela, with her own rich history of contribution to the struggle, became embroiled in a controversy that caused immeasurable damage to her reputation. There can be no doubt that she showed poor judgment in ignoring the advice of the community leaders and members of the MDM. The Commission has been unable to arrive at a satisfactory conclusion as to what went wrong, why Madikizela-Mandela was not accountable to the democratic structures inside the country, what influence the external liberation movement had over her, why she surrounded herself with persons of the calibre of Jerry Richardson and Xoliswa Falati, or why she became so isolated from democratic and community structures.
- 113 The Commission cannot but state that both the MDM and the ANC must accept responsibility for not bringing her into the fold or disciplining her when things were beginning to go wrong. This could perhaps have prevented some of the events that unfolded during that tragic period.
- 114 It is regrettable that Ms Madikizela-Mandela did not use the hearings as a forum to take the Commission and the nation into her confidence in order to shed light on the circumstances that resulted in the chaos and violence that emanated from her household. This would have assisted in the process of separating wild allegation from the morass of claims made against her.
- 115 There can be no doubt that there were forces at work that aimed to sow discord between Ms Madikizela-Mandela and the Soweto community and the liberation movements. The infiltration of the club by one or more police informers and the manipulation of events and circumstances by the security forces exacerbated the ensuing discord. These factors cannot, however, be held solely responsible either for the causes or the consequences of this conflict.
- 116 The Mandela United Football Club phenomenon was replicated in the vigilante actions of other, similar groups across the country during this period. The fundamental difference, however, was that this group enjoyed the patronage, support and protection of Ms Madikizela-Mandela and the prestige of association with the Mandela name. The club was initially admired by many in the local community, but within a few years became feared and loathed as it engaged in a series of acts of terror against its perceived enemies and those that defied its authority. Madikizela-Mandela's proximity to these events is as undeniable as her complicity.

# Political Violence in the Era of Negotiations and Transition, 1990-1994

## ■ INTRODUCTION

- 1 The Commission had considerable success in uncovering violations that took place before 1990. This was not true of the 1990s period. Information before the Commission shows that the nature and pattern of political conflict in this later period changed considerably, particularly in its apparent anonymity. A comparatively smaller number of amnesty applications were received for this period. The investigation and research units of the Commission were also faced with some difficulty in dealing with the events of the more recent past.
- 2 Two factors dominated the period 1990–94. The first was the process of negotiations aimed at democratic constitutional dispensation. The second was a dramatic escalation in levels of violence in the country, with a consequent increase in the number of gross violations of human rights.
- 3 The period opened with the public announcement of major political reforms by President FW de Klerk on 2 February 1990 – including the unbanning of the ANC, PAC, SACP and fifty-eight other organisations; the release of political prisoners and provision for all exiles to return home. Mr Nelson Mandela was released on 11 February 1990. The other goals were achieved through a series of bilateral negotiations between the government and the ANC, resulting in the Groote Schuur and Pretoria minutes of May and August 1990 respectively. The latter minute was accompanied by the ANC's announcement that it had suspended its armed struggle.
- 4 A long period of 'talks about talks' followed – primarily between the government, the ANC and Inkatha – culminating in the December 1991 launch of the Convention for a Democratic South Africa (CODESA). CODESA, which involved twenty different political parties and organisations, collapsed in disagreement over issues of

majority rule and regional powers. In May 1992, talks resumed with CODESA II. However, barely a month later, the ANC withdrew in the wake of the Boipatong massacre of 17 June 1992 and embarked on a campaign against the remaining homeland governments. Talks resumed five months later, after the signing by the ANC, PAC and the government of a Record of Understanding.

- 5 The Record of Understanding marked a shift in the National Party (NP) government's negotiating strategy. It abandoned its *de facto* alliance with the IFP, through which it had hoped to secure enough electoral support to force a power-sharing arrangement with the ANC. Instead, the ANC and the government now co-operated closely while the IFP aligned itself with a coalition of bantustan governments and elements of the white right wing. This latter grouping ultimately coalesced into the Concerned South Africans Group (COSAG) which, in July 1993, walked out of the talks and formed the Freedom Alliance. This development saw a further escalation in the level of violence. With the IFP's chief negotiator threatening a civil war if the elections went ahead without the IFP, deaths from political violence in July and August 1993 soared to 605 and 705 respectively, compared to 267 in June 1993.
- 6 In December 1993, a Transitional Executive Council (TEC) was installed, composed of representatives of all parties to the negotiations process. Meanwhile, behind-the-scenes talks continued with the Freedom Alliance to secure its participation. This was achieved shortly before the 27 April 1994 election.
- 7 Of 9 043 statements received on killings, over half of these (5 695) occurred during the 1990 to 1994 period. These figures give an indication of violations recorded by the Commission during the negotiations process. They represent a pattern of violation, rather than an accurate reflection of levels of violence and human rights abuses. Sources other than the Commission have reported that, from the start of the negotiations in mid-1990 to the election in April 1994, some 14 000 South Africans died in politically related incidents. While Commission figures for reported violations in the earlier part of its mandate period are under-represented in part because of the passage of time, they are under-reported in this later period because the abuses are still fresh in people's memories and closely linked into current distribution of power.
- 8 The violence during the 1990s stemmed from intensification in the levels of conflict and civil war in KwaZulu/Natal. While the province had been plagued for five years by a low-level civil conflict, conflict intensified dramatically in the 1990s.

The Human Rights Committee (HRC) estimates that, between July 1990 and June 1993, an average of 101 people died per month in politically related incidents – a total of 3 653 deaths. In the period July 1993 to April 1994, conflict steadily intensified, so that by election month it was 2.5 times its previous levels.

- 9 Moreover, political violence in this period extended to the PWV (Pretoria-Witwatersrand-Vereeniging) region in the Transvaal. The HRC estimates that between July 1990 and June 1993, some 4 756 people were killed in politically related violence in the PWV area. In the period immediately following the announcement of an election date, the death toll in the PWV region rose to four times its previous levels.
- 10 The escalation of violence coincided with the establishment of Inkatha as a national political party, the Inkatha Freedom Party (IFP), in July 1990, and its attempts to develop a political base in the Transvaal. The development of self-defence units (SDUs) in largely ANC/UDF strongholds led to an escalation of violence in both provinces.
- 11 Many came to believe that a 'hidden hand' or 'third force' lay behind the random violence, which included military-style attacks on trains, drive-by shootings and a series of massacres and assassinations. The train violence swept the Rand from 1990 onwards. By June 1993 it had caused some 400 deaths and countless more injuries, and left thousands of commuters consumed with fear on a daily basis. Such attacks frequently generated further violence.
- 12 At this time, there was also a marked increase in attacks on police officers. Between July 1991 and June 1992, the HRC recorded a total of sixty-eight police officers killed. A further 200 deaths were recorded between July 1992 and June 1993.
- 13 Violence also arose from the continued use of lethal force in public order policing. The HRC estimated that killings by the security forces, primarily in the course of public order policing, numbered 518 between July 1991 and June 1993. In the first major incident, less than six weeks after President de Klerk's speech, seventeen people died and 447 were injured when police fired without warning on a crowd of 50 000 protesters at Sebokeng. Other massacres occurred in Sebokeng in July and September 1990 and in Daveyton and Alexandra townships in March 1991.
- 14 This was also APLA's most active period. A wave of military attacks was visited on largely civilian targets, primarily in the western and eastern Cape, as well as attacks on farmers in the Orange Free State.

- 15 Right-wing organisations were also active and vocal during this period, expressing their resistance to the changing political order. The right wing was responsible for several random attacks on black people as well as a more focused campaign of bombings before the elections in April 1994.
- 16 The term 'third force' began to be used increasingly to describe apparently random violence that could not be ascribed to political conflict between identifiable competing groups. Rather it appeared to involve covert forces intent on escalating violence as a means of derailing the negotiations process.
- 17 At about this time FW de Klerk appointed the Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation headed by Judge Richard Goldstone. Initial reports of the Goldstone Commission found no evidence of a 'third force'. While there were many criticisms of the manner in which the security forces were dealing with the situation, the Commission pointed to high levels of political intolerance as well as wider-ranging socio-economic conditions as the primary causes of violent conflict. Notwithstanding Goldstone's findings, non-government organisations, including violence monitoring groups, and a number of national newspapers continued to allege the presence of a 'third force' in the violence. Allegations of security force involvement in the violence reached a climax with the Boipatong massacre.
- 18 In November 1992, during a Goldstone raid on the offices of the Directorate of Covert Collections (DCC), evidence emerged of security force involvement in illegal activities. President de Klerk responded by appointing General Pierre Steyn, assisted by General Conradie of the SAP, to conduct an investigation into the activities of certain military units.
- 19 General Steyn based his investigation on two investigative initiatives already underway and reported to President de Klerk and senior members of his cabinet on 20 December 1992. The substance of this report was that components of the South African Defence Force (SADF) – DCC, Army Intelligence, Special Forces and the 7th Medical Battalion – were involved in a wide range of illegal and/or unauthorised activity. These included the establishment of arms caches and springboards for attacks; an attempt to overthrow General Bantu Holomisa's government in the Transkei; the planting of weapons in Swaziland to discredit the ANC; corruption of DCC members in relation to arms deals; the selective leaking of information to right-wing groups; involvement in a chemical attack on FRELIMO, and corruption for personal gain.

- 20 In addition, he concluded that the security forces (and specifically 5 Reconnaissance Regiment) were probably involved in train violence; that there was probably a Chemical and Biological Warfare programme, as well as a probable attempt to get CCB operative Danie Phaal to distribute poisoned beer to Zulu-speakers in the Transkei. Strong allegations were also made of further unlawful and/or unauthorised actions.
- 21 General Steyn indicated, however, that the intelligence was not sufficiently refined to stand up in court because of the extensive destruction of documents and other evidence, concern over the safety of sources, the fear that those implicated would resort to murder if they felt threatened, and the fact that many role-players protected each other.
- 22 De Klerk was given a staff report compiled for General Steyn by the SADF's Chief Directorate of Counter Intelligence. SADF chief General 'Kat' Liebenberg, army chief General Georg Meiring and chief of staff intelligence, General CP van der Westhuizen, were called to Tuynhuys and asked to draw up a list of people against whom action should be taken. Their list included General Thirion whom the Steyn report specifically recommended for exemption from action, and excluded other names – including those of the three generals who drew up the list – against whom the Steyn report had recommended that action *should* be taken.
- 23 The following day, De Klerk issued a statement saying that six top-ranking officials had been placed on compulsory early retirement and sixteen on compulsory leave pending further investigation. By the end of December, fifteen of the twenty-three had been cleared of possible links to illegal or criminal actions. It was announced that a board of enquiry would be constituted to examine possible illegal and/or criminal or unauthorised actions involving three SADF and four civilian members.
- 24 The Steyn documents were handed over to a team of investigators consisting of the Attorneys-General of the Witwatersrand and the Transvaal, the SAP and the Auditor-General, under the direction of Transvaal Attorney-General Jan D'Oliviera. Some of the allegations were referred to the Goldstone Commission for further investigation.
- 25 Steyn himself took early retirement in October 1993, at the age of fifty-one. His last progress report submitted to the Minister of Defence noted that few, if any, of the suspects had been questioned and that there had been little progress in gathering evidence.

26 In addition to Steyn Commission allegations in respect of taxi and train violence, the Goldstone Commission investigated a number of allegations of the involvement of a ‘third force’ in the conflict. These included the planning or instigation of acts of violence by the SAP in the Vaal area; the presence of RENAMO soldiers in KwaZulu; the existence of a ‘third force’ as alleged by the *Vrye Weekblad* on 30 October 1992; the existence of SADF front companies; the training by the SADF of Inkatha supporters in 1986 and of the ‘Black Cats’, and the involvement by elements within the SAP, the KwaZulu Police (KZP) and the IFP in criminal political violence.

27 The Goldstone findings initially rejected the notion of a ‘third force’ or ‘hidden hand’. However, in his March 1994 report, “Criminal political violence by elements within the SAP, the KZP and the Inkatha Freedom Party”, Goldstone alleged that the SAP were engaged in arming the IFP and pointed to attempts by senior police officers to subvert the Goldstone enquiry.

28 The Goldstone Commission submitted its final report in October 1994, some six months after the first democratic elections and the end of this Commission’s mandate period. While the overall levels of violence dropped dramatically in the post-election period, allegations of sinister forces continued in relation to ongoing violence in KwaZulu-Natal.

29 The commission of gross violations of human rights by state security forces, homeland structures, the right wing and liberation movements are dealt with below.

## ■ SECURITY FORCES

### Detention and Torture

30 Evidence before the Commission indicates that detention<sup>1</sup> and torture continued to be used by the SAP in the early 1990s.

31 The majority of torture victims were short-term detainees, frequently arrested in connection with public unrest. Analysis of human rights violations statements indicates a far greater incidence of torture in rural areas and small towns than in the major urban centres. A possible explanation is the wide support enjoyed by the right wing in non-urban areas. The overwhelming majority of torture victims

<sup>1</sup> In June 1991, the Internal Security Act was amended by the Internal Security and Intimidation Act. In terms of the new legislation, *incommunicado* detention under section 29 was limited to only 10 days, unless ordered by a Supreme Court judge. However, it was only on 25 April 1994, just days before the first democratic election, that section 29 was finally removed from the statute book.

in this period continued to be those allied to the ANC and the Mass Democratic Movement (MDM). The Commission received fewer than ten statements from members of the IFP alleging torture at the hands of the South African security forces in the 1990s. Even taking into account the fact that fewer IFP victims came to the Commission, the disparity is marked.

- 32 The Commission received human rights violations statements from two members of right-wing organisations who were victims of torture. Phillipus Cornelius Kloppers [JB06109/03WR and AM4627/97], member of the *Afrikaner Weerstandsbeweging* (AWB) was arrested in January 1994 in connection with the roadblock killings of December 1993 on the Ventersdorp/Randfontein Road (see below), in respect of which he also applied for amnesty. He was blindfolded, bound, 'tubed' (suffocated with a tube) and subjected to electric shock treatment. Kloppers claims to have been denied medical treatment for nineteen months and to have lost 75 per cent of the mobility in his neck.
- 33 Mr Leonard Michael Veenendaal [KZN/Mr/146/NC], a member of the *Orde Boerevolk* and an alleged NIS source, was detained under section 29 in July 1990. He was handcuffed and had his legs bound in chains and a balaclava pulled over his head. He was taken to a farm where he was assaulted with fists on his face and stomach until he vomited. During the night he was taken to an office and further beaten by *askaris*. On another occasion, he was told to undress and was bound to a chair. Three live wires were attached to his armpit, toes and genitals and he was subjected to electric shocks until he lost consciousness. After being revived with cold water, he was told to stand but was too weak to do so. His torturers then urinated over him. Veenendaal was eventually released after a seventy-six day hunger strike.
- 34 An amnesty application was also received from a security police officer, Roelof Venter [AM2774/96], relating to the detention and 'intimidation' of a number of high-profile members of right-wing organisations.
- 35 The Complaints Investigation Unit of the Peace Accord raided the headquarters of the Internal Stability Unit (ISU) at Vosloorus in 1993 after the ANC had won an order restraining ISU members from assaulting and torturing people. Electric shock equipment and rubber tubing were found. In May 1994, after the first democratic election, Dutch observers discovered a machine for administering electric shock at the Vaal Riot and Crime Investigation Unit. According to the submission of the HRC, at least three people died in custody for security-related

offences. They were Mr Clayton Sizwe Sithole, who is alleged to have committed suicide while held at John Vorster Square; Mr Lucas Tlhothlhomisang, who is alleged to have died from meningitis while held in Klerksdorp; and Mr Donald Thabela Madisha, who is said to have hanged himself at the Potgietersrus police station. In addition, there were a number of other cases of death in custody. A special investigation task team was set up in July 1991 to investigate the activities of police at the Welverdiend police station on the West Rand, dubbed the 'House of Horrors,' following numerous accounts of torture and assault and the deaths of some seventeen people in custody. Victims included sixteen-year-old Nixon Phiri and fifteen-year-old Eugene Mbulawa (see Volume Three).

WHILE THEY FALL OUTSIDE ITS MANDATE PERIOD, THE COMMISSION NOTES WITH CONCERN THE ONGOING REPORTS OF TORTURE AND DEATHS IN CUSTODY, WHICH HAVE REACHED ALARMING LEVELS. AS NOTED IN THE PREVIOUS SECTION, TORTURE OF SUSPECTS IN CRIMINAL CASES PRECEDED THE USE OF TORTURE OF POLITICAL DETAINEES. IT HAS BEEN SUGGESTED THAT SUCH METHODS WERE AND ARE ROUTINE METHODS IN POLICE CRIMINAL INVESTIGATIONS AND TO A LARGE DEGREE REPLACE ROUTINE INVESTIGATIVE WORK. THE COMMISSION RECOMMENDS THAT THE POLICE SERVICES UNDERTAKE URGENT MEASURES TO HALT THESE PRACTICES.

## **Violations associated with public order policing**

- 36 There was little change in the policing of demonstrations after 1990. Unrest and deaths continued to occur as a result of the use of deadly force. The following graphs indicate violations recorded by the Commission. While not reaching the same level as the 1984–87 period, killings by the SAP increased significantly between 1989 (the year of the Defiance Campaign) and 1990 and remained at relatively high and constant levels until the end of 1993. The breakdown reveals that over 600 of the SAP killings were the result of shooting. As the number of assassinations by known/identified security force personnel during this period was relatively small, most of these shootings would have arisen in public order policing situations.
- 37 In one incident which took place on 26 March 1990, police opened fire on a crowd of 50 000 people marching to Vereeniging to present a list of grievances. At least thirteen people died and more than 400 were injured. Many victims had been shot in the back. Police claimed to have fired in self-defence after the crowd threw stones and bottles. However, reporters present testified that they had seen no evidence of this. Participants alleged that the police had opened fire without warning. Judge Goldstone, appointed after calls for a judicial commission of enquiry, recommended that police be prosecuted. No action was taken.

38 On 19 April 1990, five youths were killed during a march at Viljoenskroon in the Orange Free State. The police gave orders to disperse, but it is alleged that, before the time had elapsed, a police officer shot into the air, causing panic among the crowd. The police then opened fire.

39 On 14 March 1991, police opened fire on a crowd of approximately 200 Daveyton residents, killing thirteen people and injuring twenty-nine. The police version was that they opened fire after they were attacked by a group which then hacked a police officer to death. A special police investigation into this incident was headed by Lieutenant General Jaap Joubert. The ANC rejected the results of Joubert's investigation. Several months later, a judicial enquiry under Supreme Court judge, Justice B Donovan, found that the police had used excessive force in their handling of the incident. In Judge Donovan's words:

*The one feature in my mind which is of decisive importance is the enormous number of rounds of ammunition (250) fired by the police ... It appears to me that the policemen involved in the incident were guilty of an excessive use of firearms in their defence and exceeded the limits of self-defence.*

40 The finding was referred to the Attorney-General who declined to prosecute.

41 On 8 April 1992, two women were shot dead and more than 100 injured in Phola Park following an attack on a 32 Battalion (SADF) patrol by unknown gunmen. Several women were also allegedly raped or sexually harassed during the twelve-hour raid. On 19 June 1992, an interim report of the Goldstone Commission found that more than 200 rounds had been fired and that the soldiers had acted in a manner "completely inconsistent with the function of a peacekeeping force and, in fact, became perpetrators of violence". The Commission recommended that the Battalion should not be used in any further peace-keeping duties. General Meiring, then chief of the army, responded that, while the army would act against any abuses, it would not withdraw Battalion 32 from the townships.

42 The Commission made a comprehensive finding regarding public order policing in the pre-1990 period.

**THE COMMISSION FINDS THAT, IN THE POST-1990 PERIOD, THE APPROACH OF THE SAP TO CROWD CONTROL AND PUBLIC ORDER POLICING REMAINED LARGEMLY UNCHANGED AND EVIDENCE AVAILABLE TO THE COMMISSION INDICATES THAT LARGE NUMBERS OF PEOPLE DIED AS A RESULT OF THE UNJUSTIFIED USE OF DEADLY FORCE. SUCH DEATHS ARE GROSS VIOLATIONS OF HUMAN RIGHTS FOR WHICH THE SAP IS HELD ACCOUNTABLE.**

## Killings

43 During this period political opponents continued to be killed in circumstances which pointed directly to security force involvement.

### ***External killings***

44 On 22 April 1990, four members of the Chand family, Samsodien, Hajira and their two young deaf children, Amina and Ridwan, were killed, along with an unnamed security guard, in an attack on their home in Botswana. According to Colonel Eugene de Kock, the operation was authorised by Brigadier Nick Janse van Rensburg who had succeeded Schoon as head of C section. De Kock executed the operation with a team of Vlakplaas operatives. Five of the operatives involved applied for amnesty; namely, Colonel Eugene De Kock [AM0066/96], W A 'Willie' Nortjé [AM3764/96], Major Chappies Klopper, Douw Willemse [AM3721/96] J H Tait [AM3922/96], WW Mentz [AM 2775/96], D J Brits [AM3745/96] and Martinus Ras [AM5183/97]. Another applicant not directly involved in the operation, Izak Daniel Bosch [AM3765/96], applied for amnesty for his role in creating a decoy.

45 The Chands were victims of rivalries within the intelligence community – specifically in this case between the Western Transvaal Security Police and Military Intelligence's Directorate of Covert Collections (DCC). According to evidence before the Commission from the section 29 hearing of Captain Hendrik Christoffel Nel in the late 1980s, DCC operative Tony Oosthuizen recruited Chand as a conduit for the infiltration of PAC members and APLA guerrillas into South Africa. Chand acted as a source for the Western Transvaal Security Branch but had been "put on ice" as they felt they had the PAC in Botswana under their control.

46 According to Nel, the Western Transvaal became concerned with this disruption to their mode of operation and because they learned that some of the APLA infiltrators had "got away" Matters came to a head after Chand brought a small PAC group into the country who, when intercepted at a roadblock, engaged in a shoot-out in which fifteen police were wounded and a number of civilians killed. "The next thing Sam Chand was eliminated." Nel's story is corroborated by other information collected by the Commission.

47 On 28 April 1990, Father Michael Lapsley [CT00654], a New Zealand citizen but long-time resident of Southern Africa, and well known for his support of the South African liberation movement, was severely injured in a parcel bomb explosion at

his home in Harare, Zimbabwe. The explosive was contained in a registered package in a large manila envelope with a Dobsonville, Soweto postmark. A colleague in the room at the time, Mr Andrew Mutizwa, was slightly injured by the blast.

- 48 In his appearance before the Commission, Lapsley stated that the security authorities in Zimbabwe had warned him in 1988 that his name was on a South African hit list of targets for elimination. Given the recent spate of attacks on targets inside Zimbabwe, the warning was taken seriously and Lapsley was given a twenty-four-hour guard and warned not to open large packages. After the unbannings in South Africa in February 1990 and a statement by General Malan that there would be no further attacks in the front-line states, the protection was relaxed. The Lapsley case is the last known incident of an attempted cross-border or external killing in the mandate period.
- 49 Christoffel Nel, who had no direct knowledge of this operation, confirmed that Lapsley had been a DCC 'target' (for intelligence attention and not necessarily killing) since 1987, and that whenever

*Leon Nefdt (DCC operative responsible for Zimbabwe) ... presented his targets to the Generals, Father Michael Lapsley was included in the so-called support infrastructure of the Zimbabwean machinery and part of the political machinery ... there was at one stage a discussion about doing something to Father Michael Lapsley ... before I joined the CCB, about the possibility of sending him a parcel. Leon Nefdt in my presence had a discussion with a certain Colonel Hekkies van Heerden. He was known as 'Colonel Hammer' because it was jokingly said that he would use a hammer to kill a fly ... I think that's exactly what happened in the case of Father Michael Lapsley, that he received a parcel.*

- 50 The one question that puzzled Nel was the timing of the operation – post-February 1990 – which made him feel that it was neither a DCC nor Special Forces/CCB operation. Joe Verster [AM5471/97], the CCB's general manager who appeared before the Commission, deviated only once from his position that he would not discuss external operations when, under oath, he denied that Lapsley was a CCB project.
- 51 Nel speculated that the Lapsley bombing was possibly a NIS operation. He argued strongly that NIS had an operational division with a strong presence in Zimbabwe.

Its key operative, Danie du Plessis, was said to have had an intimate knowledge of the situation, particularly in relation to what was known as the ‘white left’. There is other supporting evidence that NIS monitored Lapsley closely. The Commission received source reports on Lapsley dated 29 January and 8 May 1990.

### ***Internal killings***

- 52 The HRC recorded large numbers of political assassinations during the early 1990s, the victims of which were largely office-bearers of the newly unbanned ANC, MK members or members of allied organisations. The security forces were allegedly responsible for several of these – including the deaths of Mr Scelo Msomi, Dr Henry Vika Luthuli, Mr Michael Mcetywa and the attempted killing of Mr Bheki Mlangeni.
- 53 According to the MK integration list, Mr Scelo Msomi [KZN/NN/340/DN] was killed by *askaris* in South Africa in 1990. Msomi had been in Tanzania in exile since 1986 and returned for an operation in June 1990.
- 54 Dr Henry Luthuli [KZN/SS/013/DN] was gunned down in his surgery in Esikhawini on 2 August 1990. The investigating officer, Detective Sergeant Derrick Ntuli, arrested a Vlakplaas member, Constable Thembinkosi Dube, for the killing. Ntuli was later taken off the case and subsequently died in mysterious circumstances. (Details of the case appear in Volume Three).
- 55 ANC chairperson in Pongola, Michael Mcetywa [KZN/HG/313/EM], was killed by local IFP member Emmanuel Mavuso [AM7921/92] on 22 November 1993. Mavuso was subsequently convicted of the murder, but evaded custody while out on bail. A co-conspirator, Mr Mdu Msibi, alleged that Mcetywa’s killing had been planned by both IFP leadership and the Piet Retief Security Branch (see Volume Three).
- 56 On 16 February 1991, Johannesburg lawyer Bheki Mlangeni [JB00195/016GTSOW], was killed when he activated a Walkman music cassette player at his home in Johannesburg. The intended victim was former Vlakplaas commander Captain Dirk Coetze. Colonel Eugene de Kock [AM0066/96] applied for amnesty for this killing, along with fellow Vlakplaas members WA ‘Willie’ Nortjé [AM3764/96], ID ‘Steve’ Bosch [AM3765/96] and W Riaan Bellingan [AM5283/97] Kobus Kopper [AM3762/96] J F ‘Japie’ Kok [AM3812/96], J. ‘Kobus’ Kok [AM3811/96], and then head of the security police’s technical division, Wahl du Toit [AM5184/97]. In his book *A Long Night’s Damage*, De Kock states that he was instructed to “make a plan” in respect of Coetze by then C section commander, Brigadier Nick Janse van

Rensburg, who also gave him Coetzee's postal address. Coetzee had by this time joined the ANC and was in the process of debriefing the organisation on his knowledge of security police activities. He was also due to testify in a pending civil suit against the head of the SAP forensic laboratory, General Lothar Neethling.

- 57 De Kock said that a senior officer suggested he list Mlangeni's name as the sender on the postal package, as he was a lawyer with whom Coetzee had been in regular touch and Coetzee would not find it irregular. The bomb was prepared by the technical division and sent to Coetzee. Coetzee was suspicious of the package and refused to accept it from the Lusaka Post Office and, after some months, it was returned to its apparent sender Bheki Mlangeni, who was killed instantly when the device in the Walkman was detonated.
- 58 Several killings followed the abduction and interrogation of victims. Again, the security forces are implicated in such cases, including that of Mr Johannes Sweet Sambo, Mr Mbuso Shabalala and Mr Charles Zakhele Ndaba.
- 59 According to information supplied by Colonel Eugene de Kock [AM0066/96], Mr Johannes Sweet Sambo died in July 1991 while being interrogated by the Komatipoort security police. De Kock was requested by the head of the Komatipoort security police to help dispose of the body and assigned four members of his unit to the task. They blew the body up with explosives at a police farm in the area called Verdracht. De Kock, JJ de Swardt [AM3750/96], Kobus Kopper [AM3762/96] applied for amnesty for this killing. In his trial, De Kock received a six-year sentence for defeating the ends of justice by arranging for the disposal of the body. Later, three members of the Komatipoort police were charged with the killing.
- 60 Mr Mbuso Shabalala [KZN/NNN/138/PS], an *Operation Vula* operative, and Mr Charles Zakhele Ndaba [KZN/NN/076/DN] disappeared in KwaMashu in July 1990. Shabalala's car was later found in Camperdown cut into pieces. According to amnesty applicants General 'Bertus' Steyn [AM4513/97] and HJP 'Hentie' Botha [AM4117/97], Shabalala and Ndaba were detained for about seven days before being killed at the Tugela River mouth on 14 July 1990. Their bodies were thrown into the Tugela River. The applications implicate two high-ranking police officers. Other officers who have applied for amnesty in this case are SJG du Preez [AM4130/96], LG Wasserman [AM4508/96] and CA 'Cassie' van der Westhuizen [AM4388/96].

61 On 26 March 1992, Mr Khona Khabela, Mr Tiisetso (Tiso) Leballo [JB00241/01GTSOW], Mr Masilo Mama, Mr Mxolisi Ntshaota and Mr Lawrence Nyalende were killed near Nelspruit when the car in which they were travelling was ambushed. According to Colonel Eugene de Kock, he had been persuaded that a group led by Leballo was planning to rob a bank to build up the ANC's election funds. Leballo was known to the police as Winnie Mandela's former driver and a trained ANC member. Leballo was not in the vehicle but was reportedly picked up by Vlakplaas members soon afterwards and killed. De Kock was convicted for his role in these killings. During the trial, evidence led that the motive for the ambush was not political but financial. De Kock [AM0066/96] applied for amnesty, along with Rolf Dieter Gevers [AM3752/96], Deon Gouws [AM3759/96], JJ de Swardt [AM3750/96], Ben Burger van Zyl [AM7722/97], JHP Hanekom [AM3886/96].

62 Members of the security forces were also responsible for deaths in custody or arising out of the process of effecting an arrest.

63 Mr Samuel Mzuga Baloi [KZN/ZJ/111/WE] was unarmed when he was killed in Gugulethu on 22 February 1990 by *askaris* acting under the command and with the approval of their commanders in the SAP. Officially, Baloi was found to be carrying "a grenade of foreign origin" and attempted to flee when confronted by the police.

64 Constable Alfred Benjamin Bambatha, a disaffected SAP member who had earlier been in charge of a group of *askaris* in the Eastern Cape, told the Commission that he was equipped by his senior commander with an attaché case containing grenades and pistols with the instructions to plant these on any MK persons who were killed, in order to justify the death.

*I recall an incident in Cape Town during late 1989 or early 1990 in Gugulethu Township, when a male person was pointed out by the askaris. After stopping the vehicle, I approached him and informed him that I was a police official whereupon he ran away. As a result of this, the askaris jumped from the vehicle and chased the man whilst firing at him. Myself and Constable Koopman ... tried to stop them but they succeeded in fatally shooting the man. I then approached the body, discovering that he was dead as well as unarmed.*

*I had the attaché case with me and sent the askaris back to the Kombi so that they could not see what I was doing. I then placed a F1 hand grenade in the dead man's pocket under the guise of trying to help him as members of the community were watching. This fact made it impossible to place the*

*Makharov pistol next to him ... In the process of pointing out a terrorist, it was the preference of the askaris that the person be killed as they feared that, should the court set him free or he speak to other terrorists about their involvement, they themselves would be killed ... I later also made a statement that I had discovered the F1 hand grenade on his person. After the incident, the Captain complimented me on my actions and pertinently stated that it was better that the terrorists be killed to prevent their possible release.*

- 65 Mr Mthunzi Velemseni Njakazi [KZN/NN/063/DN], a returnee, was shot in the legs and chest by the Security Branch on 28 January 1991. The Durban City police called an ambulance but the Security Branch allegedly delayed the victim's getting to hospital and he subsequently died. Police claimed that they shot Njakazi because he was attempting to steal a white woman's bag [see AM3770/96].
- 66 Former security policeman Andy Taylor informed Warrant Officer Tjaart Fourie of the Security Branch that one of his *askaris* had been involved in a shooting incident, and instructed him to go to the scene and give assistance. Fourie took a Russian grenade to plant on the victim to cover-up the killing.
- 67 On 7 July 1991, Mr Madoda Mkhize [KZN/NN/162/PM] and returnee Mr Thulani Xaba were shot by police in Port Shepstone. Xaba died, but Mkhize escaped from the hospital and was shot again in Durban.
- 68 Mr Wellington Mbili, a nineteen-year-old MK member [KZN/AB/011/PS and KZN/NN/225/PS] died on 4 October 1993 while in police custody. He had been arrested by Transkei police for alleged possession of a firearm and transferred into the custody of the SAP at Port Shepstone for investigation into the alleged killing of a police officer in Gamalakhe on 14 August 1993. Witnesses claimed they had seen him being taken out of a police van in handcuffs in a bushy area near his home and then heard gunshots. Police claimed that two detectives had taken him to the area to recover exhibits and that Mbili, pointing into thick bush, suddenly produced a grenade. One police officer fired a shot in self-defence, and the grenade exploded killing Mbili instantly.
- 69 On 17 January 1994, three people were killed in an alleged armed attack on a satellite police station in Pine Street, Durban. Two of the victims were allegedly APLA members and the other a bystander. The PAC denied responsibility for this attack.<sup>2</sup> According to ballistic tests carried out by Mr T Wolmaraans, the

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<sup>2</sup> Seedad Fatima[KZN/NN/400/DN] made a statement to the Commission about the death of one of the victims, Mosheen Jeenah.

earlier investigation carried out by Warrant Officer van Biljon and Dr Book was a cover-up. Two police officers present during the shooting claimed they were fired at. However no AK or handgun bullets were found in the charge office and the weapons used by the police were not examined.

- 70 Members of the security forces were also responsible for some killings within their own ranks. The order to kill *askari* Brian Ngqulunga, who had testified at the Harms Commission on the killing of Mr Griffiths Mxenge in Durban, allegedly came from a senior officer at Security Branch headquarters with the full knowledge of his superior. Willem Riaan ‘Balletjies’ Bellingan [AM5283/97], Pieter Hendrik Botha [AM5458/97], Colonel Eugene de Kock [AM0066/96], Captain Willem Wouter Mentz [AM2775/96] and Willem Albertus ‘Willie’ Nortjé [AM3764/96] applied for amnesty for the killing.
- 71 In their applications, they report that a fellow *askari*, Mr Simon Radebe, was assigned the task of befriending Ngqulunga. On 19 July 1990, Radebe took Ngqulunga to the Skurwebergpad near Vlakplaas, where he handed him over to Dave Baker, W Riaan Bellingan, Pieter Hendrik Botha and Captain Wouter Mentz, who tied him up and hit him till he was unconscious. They then drove him to Bophuthatswana where Bellingan shot him. Nortjé and De Kock then met them in Pretoria and drove to Johannesburg where they spent the night in order to create an alibi.
- 72 *Askari* Goodwill Neville Sikhakane [KZN/MR/011/DN] was killed near Greystown on 21 January 1991. Colonel Eugene de Kock, Dawid “Duiwel” Brits [AM 3745/96], JJ ‘Blackie’ de Swardt [AM3750/96], Larry Hanton [AM4076/96] and Willie Nortjé [AM3764/96] applied for amnesty for his killing.
- 73 Andy Taylor claimed that he suspected that Sikhakane was a double agent, and so supplied him with false information. This information got back to Taylor via other sources in Swaziland, proving Sikhakane was indeed assisting the ANC. A senior Security Branch general instructed Taylor to kill Sikhakane, but to use outside people to do so. Taylor contacted Eugene de Kock and the Vlakplaas operatives killed him a few days later. The authorisation by high-ranking Security Branch personnel is confirmed in the published account by De Kock who implicates both General ‘Bertus’ Steyn, then Officer Commanding the Port Natal Security Branch, and the then head of the C section, General Krappies Engelbrecht. Nortjé allegedly received a cash bonus of R2 000 after the operation.

74 Mr Johannes Temba Mabotha, allegedly a trained MK member, was arrested at Potgietersrus and became an *askari*. He was assigned to work with former Koevoet member Colonel Jan Daniel Potgieter at the Soweto Intelligence Unit, and apparently became involved with the Mandela United Football Club. It is not clear whether this was part of his work as an *askari*. At some stage, Mabotha's loyalty was questioned and, following a meeting with Vlakplaas members, he was taken to a farm and interrogated. According to De Kock, Mabotha was tortured so severely that he could not be released and was handed over to the Security Branch at Soweto and kept there until his injuries had healed.

75 De Kock claims that, when Mabotha was due for release, he was asked "to make a plan". Potgieter handed Mabotha over to Vlakplaas operatives and they took him to the Penge mine where he was again interrogated. Mabotha was then taken to the bottom of a quarry on the premises. De Kock continues:

*Explosives had already been placed there ... When Mabotha saw the explosives there he turned round and looked at me. I shot him twice in the heart with a .38 Special revolver. He died immediately.*

76 Members of Vlakplaas then repeatedly detonated explosives until there were no remains left.

77 Amnesty applicants in respect of this incident include Captain Willem Wouter Mentz [AM2775/96]; Sergeant Dawid Jacobus 'Duiwel' Brits [AM3745/96]; Colonel Eugene De Kock [AM0066/96]; and Colonel Jan Daniel Potgieter [AM5418/97]. While De Kock and Mentz give 1992 as the date of the incident, Brits and Potgieter claim that it took place on 4 October 1989.

#### **THE COMMISSION MADE COMPREHENSIVE FINDINGS IN RESPECT OF EXTRA-JUDICIAL KILLINGS IN THE PRE-1990 PERIOD.**

EVIDENCE BEFORE THE COMMISSION INDICATES THAT, IN THE POST-1990 PERIOD, THE SAP CONTINUED TO CARRY OUT EXTRA-JUDICIAL KILLINGS AND ATTEMPTED KILLINGS, BOTH INTERNALLY AND EXTERNALLY. TARGETS INCLUDED HIGH-PROFILE POLITICAL ACTIVISTS PREDOMINANTLY ASSOCIATED WITH THE ANC. THE COMMISSION FINDS THAT SUCH EXTRA-JUDICIAL KILLINGS TOOK THE FORM OF ASSASSINATION, AMBUSHES AND ENTRAPMENT KILLINGS, KILLINGS AND ATTEMPTED KILLINGS BY WAY OF PARCEL BOMBS. THE COMMISSION FINDS THAT THESE ACTS CONSTITUTED GROSS VIOLATIONS OF HUMAN RIGHTS FOR WHICH THE SAP ARE HELD ACCOUNTABLE.

## Raids

78 On 8 October 1993, five sleeping youths including two twelve-year-old children were shot dead in a SADF raid on an alleged APLA base at the Mpendulo residence in the Northcrest suburb of Umtata. A press statement released by the then Minister of Defence HJ 'Kobie' Coetsee a week later stated that the raid was based on intelligence provided by three suspects in detention. Ostensibly the raid was to pre-empt attacks on civilians by APLA operatives, allegedly using the Transkei as a base from which to launch such attacks.

79 General Georg Meiring, chief of the army at the time of the attack, said in a section 29 investigative enquiry that more than fifty APLA attacks had been launched across the Transkei border in the period preceding October 1993 and that the role of the Transkei in providing both a safe haven for the APLA high command and APLA operatives, and in providing military training, had been confirmed by a Goldstone Commission enquiry. The State Security Council (SSC) had discussed the situation in August 1993. During September, the SADF received information from the SAP regarding the use of the Mpendulo residence as an APLA arms facility and base from which attacks in the Eastern and Western Cape were launched. According to this intelligence, some eighteen APLA operatives stayed at the house.

80 General Meiring indicated that he relied on then director of operations Brigadier Castleman, and a senior staff officer for intelligence, Colonel Gibson for the planning of the operation. With the approval of Minister Coetsee, an army reconnaissance mission was launched on 2 October 1993. This confirmed the SAP's intelligence but, on Meiring's admission, was unable to confirm whether weapons were indeed stored there. Further, the reconnaissance mission withdrew at approximately 20h00 on 7 October, hours after authority had been given "to conduct a limited strike on the house" in order "to neutralise the target". This authorisation emanated from a meeting of the SSC attended by, *inter alia*, Ministers Kriel, Coetsee, Pik Botha and then State President FW de Klerk.

81 The strike was conducted by the 45 Parachute Brigade, under the command of Colonel Hannes Venter. According to Meiring,

*the attacking force ... left their base at 20h00 ... by road and crossed the border at about midnight. The attack took place on 080245 bravo (02h00). When the attacking force reached the house, the house was dark ... The*

*door was kicked open and because of security reasons, they did not switch on the lights ... but used flash lights, they were prepared to find as many as twelve people. There were actually only five persons in the house and all were killed because they reacted hostilely (sic).*

82 Asked to explain what he meant by "hostilely", Meiring said that one of the youths had sat up with a weapon in his hand. While the operatives had been given instructions to incur minimum loss of life, they were also told to avoid endangering themselves and, in this respect, had a license to shoot. Asked whether such a license included a license to shoot to kill, Meiring replied: "...a soldier is never trained [to do] anything but shoot to kill. There is no way of asking how to shoot, you shoot for effect if you do shoot". The police docket indicates that seventy-eight cartridges and twenty-six projectiles were found in the house. Four of the five victims were shot in the head.

83 After the shooting, a few weapons were allegedly found, together with some documentation. However, while the attacking team confirmed the existence of a reinforced storage room outside, supposedly for weapons, the expected weapons cache did not materialise. Further, in the furore that followed the raid, lawyers for the family arranged for an international US forensic expert to examine the seized weapons. The SADF has thus far failed to produce such weapons.

84 The following people were killed in the raid: Mzwandile Mfeya (12 years), Sandiso Yose (12 years), twins Samora and Sadat Mpendulo (16 years) and Thando Mtembu (17 years).

85 In 1995, the Government of National Unity issued the following statement, drawn up according to Minister of Justice Dullah Omar in consultation with President Mandela and Deputy President FW de Klerk:

*The raid on the house in Umtata was authorised on the strength of the intelligence provided by the security forces, that it was being used as an armed cache for attacks against civilians in other parts of South Africa. That information was inaccurate at the time of the operation and the killing of the youthful occupants was unjustified and inexcusable.*

**THE COMMISSION FINDS THAT THE KILLING OF THE FIVE YOUTHS IN THE SO-CALLED UMTATA RAID WAS A GROSS VIOLATION OF HUMAN RIGHTS FOR WHICH THE FORMER SSC AND THE FORMER SADF ARE HELD ACCOUNTABLE. IN PARTICULAR, THE COMMISSION FINDS THAT THE WITHDRAWAL OF THE RECONNAISSANCE TEAM SOME EIGHT HOURS BEFORE THE OPERATION MEANT THAT THE SADF HAD NO REAL WAY OF KNOWING WHO WAS IN THE HOUSE AT THE TIME OF THE**

RAID AND REGARDS THIS AS GROSSLY NEGLECTFUL. THE COMMISSION FURTHER FINDS THAT THE FAILURE OF THE SADF TO PRODUCE THE WEAPONS ALLEGEDLY SEIZED IN THE HOUSE FOR INDEPENDENT FORENSIC EXAMINATION CASTS DOUBT ON THE EXISTENCE OF THE SAID WEAPONS.

## Alleged police complicity in political violence

86 Allegations of police complicity in the violence that plagued pre-election South Africa included both the failure to act against perpetrators of violence as well as the provision of tacit or active support for one side of the conflict.

### *Failure to act against perpetrators*

87 By August 1990, there were ongoing tensions between residents of Khalanyoni Hostel and the Phola Park squatter camp in Thokoza. These tensions came to a head shortly after the IFP launched a recruitment drive. After non-IFP members fled the hostel, residents from Phola Park attacked the hostel, destroying it brick by brick. The SAP's initial response was that the conflict was a factional one and that they would "not get involved in a political fight" between Xhosa and Zulus.

88 In Sebokeng, twenty-three people were killed in an initial attack and a further fifteen people in a subsequent attack by the SADF which opened fire on a crowd on 3 September 1990. (Sebokeng had also been the scene of a massacre in March 1990.) The first attack on the Sebokeng hostel was carried out by Inkatha supporters, armed with guns, hand grenades, home-made bombs, spears and axes and was an attempt by those who had been evicted from the hostel in July to regain their former residence. In the conflict that ensued, residents of Sebokeng trapped the attackers in a block in the hostel. The police managed to keep the opposing forces apart, thus preventing further casualties.

89 The second attack occurred when members of the SADF opened fire without provocation on a crowd which had gathered outside the hostel and was demanding that police wait for the arrival of ANC leaders before they proceed to remove the attackers, at that time holed up in the hostel (see further Volume Three). Although a judicial enquiry found that the SADF members had displayed unprofessional behaviour, no action was taken against them.

90 The actions of the Khetisi gang, led by Mr Victor 'Khetisi' Kheswa, are covered in some detail in Volume Three. Initially little more than a criminal gang, the Khetisi gang appears to have begun a reign of terror in Sebokeng appears to have begun when Kheswa established links with the IFP, giving him access to arms. The

gang members were arrested for their involvement in the Nangalembe night vigil massacre on 12 January 1991, but were eventually acquitted due to lack of evidence.

- 91 Vaal police officer Masoli Meshack Mahlatsi stated in an *affidavit* that Kheswa and his gang were often detained in the police cells but received special food and treatment. He claimed that Kheswa often said that he and his gang were working together with the police. Further evidence of a link is the fact that Kheswa is known to have watched the proceedings of the funeral of ANC leader Ernest Sotsu's family from a police Casspir, despite the fact that he was widely believed to be the perpetrator of their killing. Kheswa eventually died under uncertain circumstances while under arrest in connection with the killing of nineteen people in Sebokeng in April 1993 and sixteen people in Sebokeng and Evaton in June 1993.
- 92 Mahlatsi indicated that, on the day Kheswa died, he was threatening to speak of his links with the police. Another member of the Khetisi gang, Mr Daniel Mabothe, a suspect in the Boipatong massacre, died shortly thereafter, having been struck by the car of Kheswa's arresting officer, Detective Sergeant Peens. At the time, and against the judge's instructions, Mabothe and three other suspects was being transported to take part in an identification parade. The dockets concerning the deaths of Kheswa and Mabote have, according to the SAPS, 'gone missing.'
- 93 On 12 May 1991, twenty-seven people were killed and scores were injured in a pre-dawn attack on Swanieville informal settlement by approximately a thousand IFP hostel-dwellers from Kagiso. There were numerous allegations of police complicity in the attack. These included an allegation that the attackers had been escorted by armoured police vehicles as they made their way to Kagiso; that residents had been advised by the police to go to sleep early and stay off the streets; and that the police had confiscated weapons from Swanieville residents during a raid the previous day, while making no attempt to halt or disarm the attackers during the attack; and that balaclava-clad white men were among the attackers. The police were also alleged to have escorted the attackers back to their hostel. Police did not deny this but stated that this was to prevent a further attack on Kagiso residents.
- 94 Several IFP members were arrested, but subsequently acquitted owing to a lack of evidence. In his judgement Judge CJ Botha said that the fact that so few had been brought to trial was a "scandal". The judge noted the police's failure to call in the video unit, thus making positive identification of attackers difficult.

The judge noted further that such actions reinforced public criticism and speculation about the role of the police.

- 95 At least forty-five people were killed in the night attack on Boipatong on 17 June 1992, allegedly launched from KwaMadala hostel in the Vaal. A number of witnesses reported that white men were part of at least one group of attackers. The monitoring organisation Peace Action noted that police failed to act on warnings of the impending attack (see further Volume Three).
- 96 After the Sebokeng massacre, an independent police team was appointed by Goldstone to assess the SAP's response to and subsequent investigation of the incident. The team, headed by Dr PA Waddington, produced a report that was highly critical of the police investigation into the massacre, describing it as "woefully inadequate in a number of respects". However Waddington ascribed this to "an absence of suitable organisational structures to facilitate effective policing" and said that "omissions arose not from deliberation, but incompetence".
- 97 The Goldstone Commission of Inquiry set up in the wake of the massacre had to suspend its work when crucial tapes recorded in the Vereeniging command office of the Internal Stability Unit at the time of the massacre were mysteriously wiped blank. The SAP's Major Davidson attributed the erasure of the tapes to "a technical problem I am unable to explain". The carefully worded report of British intelligence specialists said the superimposition of material on the recordings "may not have been accidental" and that "the technical evidence suggests that this may have been done deliberately and hurriedly to obscure the contents".
- 98 In March 1994, seventeen KwaMadala hostel residents were convicted and sentenced to prison terms of between ten and fifteen years on various charges of murder, attempted murder, and public violence in connection with the Boipatong massacre. They were subsequently released on bail pending the outcome of an appeal against their convictions in the Appellate Division of the Supreme Court in Bloemfontein. When the trial began in 1993, there were seventy-four accused. Charges against sixty-three of the accused, some of whom became state witnesses, were withdrawn during the course of the trial and eleven people were acquitted due to lack of evidence.
- 99 In the course of the trial of the KwaMadala residents, SAP Lieutenant D C van der Merwe told the court that his superior officer, a Major van Wyk (who has since retired), ordered the destruction of eight 9mm bullet shells and bullet heads

which had been found at the scene of the massacre. Van der Merwe told the court that he could not tell whether the eight shells and heads were standard police issue. He said that, as far as he knew, the shells and heads had never been subjected to ballistic tests.

THE COMMISSION FINDS THAT, IN THEIR APPROACH TO THE PREVENTION AND INVESTIGATION OF POLITICAL VIOLENCE, THE SAP WAS BIASED IN FAVOUR OF THE INKATHA FREEDOM PARTY AND THAT THEIR FAILURE TO INTERVENE IN AND TO PROPERLY INVESTIGATE SUCH VIOLENCE LED TO LARGE NUMBERS OF GROSS VIOLATIONS OF HUMAN RIGHTS AND STRENGTHENED THE PREVAILING CULTURE OF IMPUNITY. THE SAP IS ACCOUNTABLE FOR THE GROSS VIOLATIONS OF HUMAN RIGHTS THAT RESULTED FROM THEIR ACTIONS.

### ***Provision of weapons to the IFP***

- 100 The March 1994 Goldstone report into criminal acts committed by members of the SAP, the KZP and the IFP implicated senior policemen not only in the supply of weapons to the IFP, but in attempts to thwart the Goldstone investigation into the issue. Subsequent evidence in the State vs Eugene de Kock and before this Commission corroborates the fact that the SAP, largely through Vlakplaas operatives, supplied the IFP with a considerable amount of weaponry during the 1990s. The Commission received a number of amnesty applications in connection with the supply and manufacture of weaponry for the IFP, including those of WA 'Willie' Nortjé [AM3764/96], AJ 'Brood' van Heerden [AM3763/96], WW Mentz [AM2775/96] and Eugene de Kock [AM0066/96]. Further applications were received from IFP recipients of some of these weapons.
- 101 Evidence before the Commission reveals that much of the weaponry supplied to the IFP was originally acquired from *Koevoet*, a Security Branch counter-insurgency unit based in Namibia. Many of the members based at Vlakplaas had previously been members of *Koevoet*. Several members of Vlakplaas applied for amnesty for the transport of weapons from Namibia to Vlakplaas. It would appear that this occurred on the orders of Brigadier Schoon on at least four occasions during the mid- to late 1980s. The weapons came from the stores of *Koevoet* as well as the SADF's Oshivelo base in Namibia. They included AK-47s and ammunition, M26 and Russian hand grenades and explosives, SADF explosives, Russian and SADF limpet mines, light machine guns, SAM7s, mortars, RPG pipes and ammunition, and various other items.
- 102 The initial link with the IFP was made during 1990 by a former Vlakplaas operative Andries (Brood) van Heerden, who had joined the security division of ABSA Bank in Johannesburg. In June 1990, Van Heerden was introduced to Mr

Themba Khoza of the IFP who asked him to supply the IFP with weapons. Van Heerden then approached Colonel Eugene de Kock, and subsequently acted as the liaison person between the IFP and Vlakplaas. By De Kock's admission, he initially took on this role without higher authorisation, but says:

Ek het ... geweet dat hierdie hulpverlening inlyn was met die algemene gevoel oor die IFP onder polisie geledere ... ene Kaptein Frederick Botha het byvoorbeeld aan my gesê dat 'n massiewe hoeveelhede geldde deur die polisie bewillig is vir die IFP. (*I knew that this assistance was in line with the general feeling about the IFP amongst police members ... one Captain Frederick Botha, for instance, told me that a massive amount of money was earmarked by the police for the IFP.*)

- 103 Later, De Kock had a discussion with Major General Krappies Engelbrecht and Major General Nick Janse van Rensburg, then head of Section C, and they authorised him to manufacture home-made firearms for the IFP. After discussing the financial aspects with General Basie Smit, Janse van Rensburg told De Kock to make false claims sufficient to make 100 home-made weapons. De Kock then telephoned Snor Vermeulen and Daniel Snyman and they arranged to have the weapons designed and made. The cost of the weapons was about R60 000. One hundred weapons were distributed to Themba Khoza and Jac Büchner, then commissioner of the KZP.
- 104 According to the amnesty application of Mr Derek Rausch, he assisted Vlakplaas members Lionel Snyman and Snor Vermeulen to make home-made explosive devices. Rausch, a precision engineer and an ex-Rhodesian police officer (BSAP) had an engineering shop next to Mechem, a subsidiary of Armscor and frequently worked for them. Rausch bought the material and Lionel Snyman and Snor Vermeulen provided the explosives to build the explosive devices from Vlakplaas stores. In his amnesty application, Johann Verster stated that, on instruction from his superior at Mechem, he provided Snyman and Vermeulen with three tons of 107mm Chinese rockets and explosives to be used in the manufacture of home-made pipe bombs and hand grenades and that he assisted in their manufacture at Snyman's house. According to Verster, these explosives were intended for Inkatha.
- 105 Later Snyman and Vermeulen again approached Rausch to assist them in making home-made shotguns. Joe Verster of Mechem assisted with this project and Snyman told him that Basie Smit approved of the project. They made approximately 200 shotguns. According to Verster, Snyman later told him that General

Le Roux was present when the prototype was tested and was very happy with the results. Both Rausch and Verster were told that the guns were intended for Inkatha. In his amnesty application, Douw Willemse stated that he assisted Snor Vermeulen and Lionel Snyman to test home-made weapons, on the instruction of De Kock.

- 106 Johann Verster also assisted Vermeulen and Snyman by removing identification marks from M26 hand grenades by painting them with black paint. Interviews with Vlakplaas members revealed that the hand grenades were modified in the following fashion: all the serial numbers were taken off, they were painted black and a piece of gut was connected between the hand grenade lever and the hand grenade in order to keep the lever close to the explosive point and destroy it completely.
- 107 Similarly, Rausch assisted in modifying AK-47s for the police. According to interviews with Vlakplaas members, some of the AK-47s given to Themba Khoza as well as those kept at Mechem were modified: they were shortened by removing the butts to make them easier to carry and conceal. Some of the AK-47s barrels were shortened, serial numbers were welded over and then ground off.
- 108 When De Kock realised that Khoza was only the youth leader of the IFP, he asked to meet Mr Humphrey Ndlovu, IFP leader in the Transvaal and an IFP Minister. He and Willie Nortjé met Mr Victor Ndlovu, Mr Themba Khoza, Mr Humphrey Ndlovu and the Reverend Celani Mthethwa at Brood van Heerden's home. It was agreed that one last batch of weapons, including two or three home-made explosive devices, made by Snyman, Vermeulen and Verster, would be given to Khoza.
- 109 According to Van Heerden, several further meetings were held and attended by Colonel De Kock, Warrant Officer Willie Nortjé, then Lieutenant Chappies Klopper, Lieutenant Piet Botha and Sergeant Charlie Chate from Vlakpaas. Minister C J Mthethwa (IFP KwaZulu Natal), Themba Khoza, Humphrey Ndlovu, Ms Dlomo, Viktor Ndlovu and James Ndlovu attended on behalf of the IFP.
- 110 Nortjé obtained weapons from De Kock on a regular basis and delivered them to the above-mentioned IFP members. The weapons delivered included: M26 hand grenades, black M26 hand grenades, AK-47s, SKS machine guns, home-made shotguns, R4s, Makarov and Tokarev pistols, landmines, a magnetised car bomb and a variety of ammunition. De Kock further states in his application that between twenty-four and thirty black hand grenades and AK-47s were

taken by De Kock and Nortjé to Revd Mthethwa's house in Natal, and on a second occasion another six or eight AK-47s plus ammunition were similarly delivered. On at least one other occasion, De Kock handed pistols to Mhetwa in Johannesburg.

- 111 Van Heerden claims that in 1993 he and Mhetwa were responsible for the formation of a self-protection plan in which the Johannesburg mid-city and all the IFP hostels were divided into self-protection teams. A copy of this plan is with the office of the Attorney-General in Gauteng and allegations of a similar nature appear in the Staff Report compiled by the Steyn investigation.
- 112 All the weapons and ammunition in the possession of Themba Khoza were distributed to the IFP hostels. An IFP supporting *induna* was identified in each hostel as the person who would distribute the weapons to IFP supporters. In addition, groups like the 'Black Cats' also received weaponry.
- 113 Some IFP members who applied for amnesty corroborate the above allegations. They include Mr David Zweli Dlamini [AM3685/96] a Caprivi trainee and hit squad member, Mr Bhekisa Alex Khumalo (aka Sosha) [AM4027/96], Mr Mhlupheni Petros Khumalo [AM2780/96] Mr Phupha Philemon Hlela [2779/96], Mr Israel Hlongwane [AM4600/97] and Mr Daluxolo Luthuli [AM4018/96].
- 114 Themba Khoza was arrested with a car load of weapons at the scene of the Sebokeng massacre in September 1990 and charged with unlawful possession of firearms and ammunition. Despite apparently strong evidence, charges against him were dropped, primarily because no fingerprints were found on any of the weapons, making it impossible to link them to any of the attackers. In addition, the court accepted Khoza's explanation that he had handed the keys of the car over to another IFP member and there was therefore a possibility that somebody else could have placed the weapons in the vehicle.
- 115 Subsequent amnesty applications indicate that Vlakplaas operatives Brood van Heerden and Willie Nortjie supplied Khoza with weapons which were used in the Sebokeng massacre, including AK-47s, black hand grenades and home-made bombs. Vlakplaas operative Willie Nortjé stated that the weapons used in the massacre were tampered with so that they could not be linked to the crime by forensics testing. Two Vaal policemen, Arthur John van der Gryp [AM4373/96], a warrant officer in the special Unrest Investigation Unit created to investigate political violence, and head of the Vaal Security Branch Jacobus Francois Conradie [AM4123/96], both admitted to removing and tampering with evidence in order

to secure Khoza's release. The car in which the weapons were found at the scene of the Sebokeng massacre was also allegedly supplied by Vlakplaas. Khoza's bail money was supplied by Vlakplaas.

- 116 According to Colonel Eugene de Kock, he delivered six ten-ton truckloads of sophisticated weaponry to Mr Philip Powell for use in the self-protection unit (SPU) training project in KwaZulu-Natal. De Kock and Powell had been introduced by members of the Durban Security Branch. De Kock asked Jac Büchner whether Powell was somebody "he could walk the road with" and Büchner stated that he could be trusted.
- 117 De Kock met Powell on two further occasions and arrangements were made for the supply of weapons to the SPU project. A Mechem official, Joe Verster, notes that De Kock telephoned him and told him that he wanted the weapons he had stored at Mechem and any further weaponry available. Theo van Dyk (manager at Mechem) gave permission for De Kock to collect the weapons.
- 118 De Kock obtained access to Mechem stores in October 1993 and collected  
*'n groot hoeveelheid ammunisie, geweer granate, ek dink daar was ses vuurpylrigters gewees met 'n redelike groot hoeveelheid vuurpyle. Daar was een 81 millimeter mortier met 'n klomp bomme gewees. Ek dink daar was twee of drie 60 millimeter mortierpype met bomme gewees, skrootmyne. (a large quantity of ammunition, rifle grenades, I think there were six rocket launchers with a reasonable number of rockets. There was one 81mm mortar with a large number of bombs. I think there were two or three 60mm mortar pipes with bombs, Claymore mines.)*
- 119 At the time, De Kock was no longer in the employ of the SAP. He told the Commission that he had used an old police ID card to get into the gate and that no one knew he was no longer in the SAP.
- 120 At the same time as the weapons were delivered to Powell, Vermeulen, other Vlakplaas members and *askaris* went to Mlaba camp to assist with training in their use. Vermeulen stated that he was paid between R5 000 and R7 000 for the training and that Powell told him that the money had been obtained from a co-owner of a Zulu newspaper. Later, General Krappies Engelbrecht told him not to do any further training. He said he himself felt that the training had a

political flavour, that he was training a private army and was not prepared to continue.

- 121 Acting on information received from Mr Israel Hlongwane in January 1994, a joint TEC/SAP raid was carried out on the Mlaba camp on 26 April 1994. A large quantity of weapons and ammunition was found in a rondawel at the camp, including twenty-six M26 hand grenades, five rifle grenades, seventy-six G-3 rifles, forty-nine shotguns and a large amount of ammunition. These weapons, together with a large number of documents, were seized. According to the SANDF, the hand grenades and detonators were SADF issue.
- 122 During the raid, Phillip Powell's vehicle was searched and two boxes of ammunition (.222 and shotgun rounds), a Ruger semi automatic firearm and a 9mm pistol were discovered. Concealed under his front seat was a 'home-made' shotgun. One of the musketry instructors, Sergeant Obed Zwelihle Nxumalo, identified the home-made firearm as belonging to Powell. Powell himself claimed that the firearm was found in one of the buses leaving the Mlaba camp and that he had intended to hand it into the Ulundi police station. He also claimed that he did not have any knowledge of the grenades found at the camp and had possession of the armoury key only for a short period on 27 and 28 April. Natal Attorney-General Tim McNally said that there was insufficient evidence to rebut Powell's explanation in respect of the firearm and decided not to prosecute. Eugene De Kock was subsequently charged on various counts related to the illegal possession of weaponry transported to Powell and convicted.
- 123 According to De Kock, he kept a register of the recipients of weapons and ammunition but handed this to General Krappies Engelbrecht before his arrest. De Kock also claimed that he had given General Steyn of Durban a complete list of all the firearms given to Themba Khoza. This is confirmed by Rausch who states that "Eugene told me that he was ordered by the Generals to destroy all of [the documentation] which we did".

THE AMNESTY APPLICATIONS RELATING TO THE SUPPLY OF WEAPONS BY THE SAP TO THE IFP HAVE AT THIS STAGE NOT BEEN HEARD AND THE COMMISSION IS THUS UNABLE TO MAKE A FINDING ON THIS ISSUE. HOWEVER, SUFFICIENT EVIDENCE IS AVAILABLE FOR THE COMMISSION TO MAKE A FINDING THAT FORMER SAP OPERATIVES PROVIDED SUBSTANTIAL AMOUNTS OF UNLICENSED HEAVY WEAPONRY, EXPLOSIVES AND AMMUNITION TO SENIOR MEMBERS OF THE IFP IN THE POST-1990 PERIOD.

### ***Security force involvement in SDUs***

- 124 Evidence before the Goldstone Commission revealed that Phola Park SDU member Michael Phama was a police informer and had been instrumental in planning and carrying out the attack on IFP supporters on 8 September 1991, in which eighteen IFP supporters were killed (see Volume Three).
- 125 In Khayelitsha, Cape Town, the conflict between *witdoeke* and an ANC SDU was exacerbated when the ANC denied the SDU access to weaponry in an attempt to control the violence. A former *witdoek* leader Mr Prince Gobingca, who has been found by the Commission to have worked for both the Security Branch and Military Intelligence, established a relationship with the SDU in September 1993 and provided weaponry and other assistance in order to facilitate their attacks on ANC members (see Volume Three).
- 126 In Richmond, the Security Branch recruited both of the key protagonists in the conflict – Sifiso Nkabinde (ANC) and David Ntombela (IFP) (see Volume Three)
- 127 The reluctance of the intelligence community to reveal the names of past sources was a great hindrance to the Commission. Without identifying who was working for whom, the Commission was limited in its ability to uncover the dynamics and causes of violent conflict within communities.

### ***Allegations of security force involvement in train violence***

- 128 Train violence first emerged in July 1990 with a series of attacks on commuters travelling on the Johannesburg–Soweto line, which left one person dead, and approximately thirty injured. Between 1990 and 1993, approximately 572 people were to die in more than 600 incidents of train violence. Only three people were convicted. Two applied to the Commission for amnesty.
- 129 Over time, the violence developed a momentum of its own. Unplanned group attacks and individual killings became more frequent than planned, orchestrated incidents involving large groups of people. Most early attacks were characterised by large groups of men (up to 300), often dressed in red headbands and using anything from iron rods to automatic weapons. Gunmen would open fire from train station platforms or spray commuters with bullets from inside coaches.

130 Young and old, male and female and supporters of all political parties fell victim to the violence, suggesting that it aimed at causing general terror rather than at achieving a clear political objective.

131 Amnesty applicants to the Commission seem to support this thesis. However, there were points at which the connection between negotiations and an escalation of train violence appears clear. The launching of Inkatha as a national political party and the suspension of the armed struggle by the ANC in July 1990 and the announcement of a date for elections in July 1993 saw a general rise in political violence.

132 The two IFP supporters who applied for amnesty for their part in the train violence both stated that they saw themselves as participating in a political conflict between the ANC and IFP. Mr Felix Ndimene, a Mozambican who had served as a sergeant in 5 Reconnaissance Regiment (5RR), made a victim statement to the Commission in which he claims he was abducted from Mozambique on 23 August 1982 and was later brought to the SADF's Phalaborwa base where he was tortured and forced to join the SADF. In an interview with the *New Nation* in July 1991, Ndimene alleged that the Selous Scouts of Pietersburg and 5RR together with members of RENAMO had been involved in train violence, particularly the Benrose massacre; he also named a Zimbabwean who had allegedly been involved in train attacks. Ndimene alleged that the intelligence division of Spoornet Security was composed of former members of the Special Forces, and that they orchestrated the violence on trains.<sup>3</sup>

133 A special investigation unit of the Goldstone Commission could not substantiate Ndimene's allegations. It ultimately found that the 51 Kommando named by Ndimene was at a legitimate clandestine internal (to the Eastern Transvaal) operation at the time of the Benrose massacre. It further found that most members who had allegedly been involved in the Jeppe attack were in the Phalaborwa camp at the time of the attack. However, a former senior Goldstone investigator told the Commission that he believed that this did not necessarily disprove Ndimene's allegations as Special Forces often operate in small groups of three to four men. The investigator believed it was possible that a small unit of 5RR could have been deployed covertly to conduct train operations. Further evidence to the Commission indicated that a senior commander in 5RR confirmed to an intelligence service that members of the unit were involved in such violence. A former deputy chief of staff intelligence expressed the view that the randomness of the attacks combined with their military precision pointed to people with Special Forces training.

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<sup>3</sup> Verslag omtrent die ondersoek deur 'n ondersoekspan van die Goldstone Kommissie na die bewerings met betrekking tot ongeruimdhede deur lede verbonde aan militêre inligting van SAW pp 33–41.

134 SAP member Wayne Hugh Swanepoel, who applied for amnesty [AM3727/96], stated that he and others in his unit were involved in throwing people from the trains around 1988 "in an attempt to cause the ANC and the IFP to blame each other". During such actions, they wore balaclavas and those parts of their skin that were exposed were painted. Afterwards, they would go to the scene of the crime "to make sure they were dead" and his own unit would investigate the case. He claimed that the people who assisted them were paid by the CCB, and that the orders came "from inside the security police and higher up".

135 Former Vlakplaas *askari* Joe Mamasela alleged in the *New Nation* in March 1997 that Eikenhof farm in the Vaal area was used to house alleged train killers. Mamasela's testimony was confirmed by an ex-police officer referred to by *New Nation* as 'Mandla'. Mandla stated that he and other Vlakplaas members were not allowed access to those they suspected to be train attackers and that they suspected that the attackers were foreigners; they "were very dark and spoke bad English", and that the men would be armed with R5 rifles and 9mm weapons.

136 A statement by Mr Xola Frank 'Jimmy' Mbane, enclosed in the files of amnesty applicants Thapelo Johannes Mbalo [AM3785/96] and Wilhelm Riaan Bellingan [AM5283/97], alleged that most of the briefings for train operations took place at Vlakplaas. He said that his train squad consisted of himself, Khayo, Sylvester, Mvelase, Shushe, Joss and Kilino. The last-named served as commander and paid the others R1 000 after successful operations.

137 The Commission was not been able to confirm the above allegations, some of which will be further pursued in amnesty hearings.

## ■ THE HOMELANDS: TRANSITION AND INCORPORATION

### Historical and Political Overview

138 The effects of the watershed in South African politics following the February 1990 unbannings was also felt in the homelands. Throughout the years of CODESA I and II, as well as the multi-party talks at the World Trade Centre, homeland leaders and their political parties manoeuvred between the dominant players in the negotiations, including the ANC, the NP and various white conservative groupings. Driven by their own agendas, homeland governments took – and when necessary changed – sides in an attempt to position themselves in a post-apartheid

South Africa. Foremost on these agendas was the issue of homeland re-incorporation into South Africa.

- 139 Two important events in the homelands proved milestones in the larger history of this period as they resonated throughout South Africa and, in turn, helped to direct the course of events in the country. The incidents occurred in homelands whose leaders had proved reluctant to surrender juridical independence and re-incorporate into South Africa. In addition, the governments in both homelands showed themselves willing to engage in political brinkmanship in order to assert their power, particularly in the face of the ANC's increasing centrality to the negotiations.
- 140 In the first incident, on 7 September 1992, the ANC organised a march from South African soil to the Ciskei capital of Bisho. The march was part of a campaign to open up areas for free political activity before elections could be held. Ciskei troops opened fire on the marchers, killing thirty people including a Ciskei soldier. The incident became known as the 'Bisho massacre'. In the wake of the Boipatong killings and the ANC's withdrawal from CODESA, negotiations teetered on the brink of collapse. Rather than pushing the country over the precipice and into full-scale violence, the events at Bisho rather contributed to an increased determination to find a peaceful settlement on the part of most political leaders.
- 141 If events in the Ciskei renewed the process of negotiations, then developments in Bophuthatswana provided a visible sign of the final collapse of the politics of armed reaction. Throughout the negotiation period, President Lucas Mangope had increasingly adopted a hard-line approach to the multi-party talks and to the ANC in particular. In the end, Mangope abandoned the negotiations altogether, announcing that he was prepared to take Bophuthatswana into the future on its own if necessary. As the date for elections drew near and popular resistance to the Mangope government intensified, Mangope called in members of the white right wing to help quell the opposition. In March 1994, the Bophuthatswana Defence Force, in conjunction with the SADF, took action against an estimated 5 000 armed members of the AWB who had answered Mangope's call. In the process, a film crew captured footage of a member of the BDF murder an injured white supremacist in cold blood. As the politics of white armed resistance collapsed in the wake of the AWB's ignominious withdrawal, the footage, which was broadcast around the world, became a symbol of the inevitability of change in South Africa. South Africa took over control of Bophuthatswana, installing an interim government under the Transitional Executive Council (TEC).

142 Two weeks after the Bophuthatswana clashes, the Ciskei government collapsed. A wave of strikes by Ciskei civil servants took place, culminating in a strike by police in the homeland's capital, Bisho during which striking policemen took senior security force officers hostage. Within days Gqozo had resigned, the SADF moved in to take control and an interim administration under the TEC was set up.

143 By 1990, the Pretoria dream of independent homelands had not only collapsed but had become a serious problem for the South African security forces. Transkei, under Holomisa, had become an area which Pretoria regarded as a liberated zone for liberation movements; this resulted in various efforts by the South African security forces over several years to oust Holomisa. Once Gqozo took over in Ciskei on 4 March 1990, just after the national unbannings, South Africa moved rapidly to turn him against the ANC when it appeared he might follow Holomisa's example.

144 The homelands became a crucial terrain during the 1990s. While it may have suited the security forces simply to close them down by enforced early incorporation into the rest of South Africa, this would not have suited the agendas of politicians on all sides: the ANC wanted territories such as Ciskei and Bophuthatswana closed down, but needed the organisational space offered by Transkei (apparently regarded as a bolt-hole should Pretoria suddenly crack down on the newly unbanned organisations again); Pretoria wanted control over Transkei but needed some of the other homelands as "independent" allies at the negotiating table (it is worth noting here that Ciskei invariably voted with Pretoria during negotiations); the right-wing later used some of the homeland rulers (including KwaZulu's Chief Mangosuthu Buthelezi, Ciskei's Gqozo and Bophuthatswana's Lucas Mangope) as allies in the Concerned South Africans Group (COSAG), a united black and white right-wing front formed in late 1992.

## **Responsibility for gross violations of human rights**

145 The table below shows the percentages of types of gross violations which were reported to the Commission for this period:

	Abduction	Killing	Severe ill treatment	Torture	Total
Homeland	3%	36%	55%	6%	100%
Non-homeland	3%	35%	57%	6%	100%

146 The table shows a noticeable rise in the incidence of killing violations, both in homelands and in non-homelands (from 22 per cent in the 1983–89 period to 36

per cent in the homelands, and from 23 per cent in the same period for the non-homeland areas to 35 per cent); there is a corresponding sharp drop in the torture violations (from 20 per cent to 6 per cent of the homeland cases and from 24 per cent to 6 per cent of the non-homeland cases). This reflects the changing nature of violence in the 1990s following the unbannings, with the ending of the state of emergency nationally but also a corresponding drop in detentions and torture in the homelands (where the independent homelands were not affected by the national state of emergency).

## Transkei and Ciskei

- 147 In July 1989, Transkei arrested six heavily-armed white men who allegedly set off from South Africa, crossed the border with ease and headed to Umtata to kill Holomisa. In December 1989 two more South Africans, including a serving member of the SAP, were arrested in Transkei on similar charges. Both these attempts seem to have been part of the ongoing attempts to unseat Holomisa which culminated in the abortive Duli coup attempt of November 1990; further attempts were made after this but none seem to have got as far as Umtata. During this period, there were frequent allegations that Transkei was harbouring, training and arming MK guerrillas.
- 148 On 4 March 1990 officers in the Ciskei military overthrew Lennox Sebe and installed Brigadier Oupa Gqozo in his place, an action in which South African security forces were apparently not involved. It appears that Gqozo was not part of the planning for this action but was instead asked to head the new government by the officers shortly after they had taken over. In the early months Gqozo's government allowed organisations to operate freely; however, within six months the SADF had sent in an MI unit which operated out of Ciskei and deliberately turned Gqozo against the ANC alliance.
- 149 In February 1991, in an ironic twist of history, Charles Sebe was shot dead by his former allies while on his way to the Bisho capital of Ciskei, apparently to overthrow Gqozo and fulfil his long-time dream of ruling Ciskei. Sebe was shot dead at a roadblock in an operation run by IR/CIS.
- 150 In July 1991, Gqozo announced the launching of the African Democratic Movement (ADM). Key members of this movement were linked to SADF MI and it appears that the ADM was either initiated by, or at least supported by, MI. The ADM moved closer to Inkatha and at one point Gqozo wrote to Chief Mangosuthu Buthelezi

suggesting they join forces under his leadership. This did not happen and the ADM eventually contested the 1994 elections in competition with Inkatha.

- 151 From 1991 onwards, allegations by the South African government of Transkei aid for first MK and later APLA increased, particularly after APLA stepped up its armed struggle from 1992. South Africa accused Transkei of harbouring guerrillas, arming them, training them with Cuban assistance and allowing them to use Transkei as a base for launching attacks across the border. By March 1993 the SAP had thrown a blockade around Transkei. In November 1993 the South African conflict with Transkei culminated in the SADF attacking the home of a PAC member it claimed was being used as an APLA base. Five children were killed. Also during 1993, MI started planning an attack on Transkei which targeted Holomisa and the ANC's Chris Hani.
- 152 Sometime between August and October 1990, Ciskei established an intelligence unit which operated until August 1991. This unit, which was initially called International Researchers and later Ciskei Intelligence Services (IR/CIS), did not fall under either the military or the police but was described as the Ciskei equivalent of the South African National Intelligence Service and reported to Gqozo directly. Gqozo employed his former instructor at the SADF, Commandant Jan Anton Nieuwoudt, as the head of the unit. Gqozo told the Commission he was unaware that, throughout the time he was working in Ciskei, Nieuwoudt was acting on the SADF's instructions and that IR/CIS was in fact an SADF ME front.
- 153 IR-CIS recruited its personnel from the Ciskei Defence Force, from Gqozo's bodyguards, from the Ciskei security police, from the Transkei security police and from former CCB members who were now jobless (the CCB officially closed down on 30 July 1990<sup>4</sup>, immediately before IR-CIS was set up). Its members included at least one man wanted on murder charges<sup>5</sup>. While IR/CIS may not have been a CCB unit, it certainly operated like one: it was funded by a source unrelated to the SADF (that is, the Ciskei government); it was not publicly known as an SADF operation; it gathered intelligence, evaluated it and then carried out operations based on its own intelligence, contrary to standard security force operating procedures.
- 154 It appears that the unit's main agenda was to bring an end to Gqozo's good relations with the ANC alliance of the immediate post-coup days. By mid-1990 relations between Gqozo and the ANC alliance had deteriorated sharply and never recovered. The disagreements peaked in July 1991 when the Ciskei government

<sup>4</sup> Harms Commission report, Sept 1990, page 198

<sup>5</sup> Former Transkei security policeman Bongani Wana aka Charles Wanase, wanted in connection with the killing of Sithembele Zokwe in Butterworth in January 1988.

reverted to supporting the headman system (initially abolished by the military government); a state of emergency was declared for a few weeks in November 1991 and by 1992 there was a low-scale war between Ciskei government supporters and ANC supporters which culminated in the September 1992 Bisho massacre.

155 The unit was eventually closed down in August 1991 when its operations had been exposed by CDF officers. The then Chief of the SADF General Kat Liebenberg personally travelled to Ciskei to oversee the closure. At the time of the closure the SADF reiterated its denial of links to IR/CIS.

#### ***The Duli coup attempt***

156 In the early hours of 22 November 1990 a group of heavily armed men attacked the Transkei Defence Force's Ncise base outside Umtata. By the end of the day, at least fifteen men from both attackers and defenders were dead, including the coup leader, some attackers had been arrested and others were on the run. The coup was led by Colonel Craig Duli, who formerly served on the Transkei military council until he fell out with the government and was detained. It was supported by the South African security forces, primarily through International Researchers-Ciskei Intelligence Services (IR-CIS).

157 The Commission received several amnesty applications from former security force members who were involved in support for this attack and/or other similar attempts to overthrow Holomisa. These included Jan Anton Nieuwoudt [AM3813/96], Eugene de Kock [AM0066/96], Daniel Lionel Snyman [AM3766/96], Leon William John Flores [AM3766/96], Nicholaas Johannes Vermeulen [AM4358/96], Willem Albertus Nortjé [AM3764/96] and Marthinus David Ras jnr [AM5183/96], all from the South African security forces, and Sydwell Mzwamadoda Ntisana [AM6359/96] of the TDF. These applications indicated that weapons were supplied at various times by the South African Police (through De Kock) for the coup attempts.

158 Following the coup attempts in Transkei, allegations of South African support for plotters and a lack of action by South African authorities in processing extradition requests, there were several instances of unlawful snatches or failed attempts to snatch suspects from South Africa. The Transkei authorities, particularly the TDF MI and/or Army Intelligence, appear to have been involved in these incidents.

159 In mid-1989, South African Foreign Affairs Minister Pik Botha accused Transkei authorities of kidnapping former TDF chief Zondwa Mtirara from South Africa.

This allegedly took place in July or August following allegations of a plot to kill Holomisa. In March 1990, two Transkei security policemen were arrested by Ciskei security forces near King William's Town; over a year later Ciskei announced that the two had admitted to being on an official mission to abduct or kill Duli or Mbotoli at the time.

- 160 Sometime in mid-1991, the TDF abducted key coup plotter Vulindlela Mbotoli from Johannesburg and took him to Transkei where he subsequently stood trial with the other coup plotters. This snatch was carried out with the assistance of Austrian businessman Mr Rainer Maria Moringer [AM0434/96] who said he had assisted the TDF MI since 1988.
- 161 In May 1991 the Transkei government passed a decree which amended the Criminal Procedure Act to allow for the prosecution of those taken across borders without their consent.
- 162 In late 1992, coup suspect Vulindlela Christopher Shologu disappeared from South Africa to re-appear in custody in Umtata.
- 163 In an abortive snatch two years later, three men apparently unconnected to the coup attempt were killed. The Commission received amnesty applications from TDF members Ntobeko William Matyolo [AM6078/97] and Mr Lungelwe Lupuwana [AM6371/97] in connection with the failed attempt to snatch Charles Wanase from his King William's Town home on 21 May 1993. Wanase was away at the time; instead the abductors snatched three young men, Lindile Kula, Nkosinathi Tuku and Nathaniel Koto and, when they could not say where Wanase was, killed them. Both Matyolo, who was a captain in the TDF's Army Intelligence at the time, and Lupuwana named Papama Mgudlwa [AM6081/97], a TDF source who applied for amnesty in connection with another killing, as the killer. Matyolo stated in his amnesty application they had been instructed to abduct Wanase by the then Transkei military ruler, Major General Bantu Holomisa. Both Matyolo and Lupuwana were charged with the killings in an East London court.

#### ***Further coup attempts against Transkei: Operation Abbot***

- 164 Attempts to overthrow the Transkei government did not end with the abortive Duli attempt. The following year the SADF's *Operation Abbot* referred to expectations that Transkei civil servants would not be paid as usual on 15 June 1991 due to a financial crisis in that government, and drafted a plan ostensibly to deal with

any violence resulting from this. The *Abbot* plan included a phase of initial deployment in the region, a second phase involving the closure of the Transkei border on receipt of the code-word "close-up" and the third phase involving entry of South African forces into Transkei on the code-word "sort-out". Third phase planning was done both for a scenario in which the SADF entered Transkei with that administration's permission and a scenario in which entry was carried out without permission, involving overcoming resistance by the Transkei security forces. An armed invasion into Transkei did not take place. On 12 June, the day Abbot was scheduled to start, members of One Parachute Battalion from Bloemfontein had arrived in the region to participate in what the SADF called at the time a group command control area protection exercise which was "straightforward routine" and not part of a troop build-up.

- 165 SADF call-ups for this period indicate additional troop movements. There were three consecutive "detached duty" call-ups for *Operation Tonto* in Komga (the nearest South African town to the main southern Transkei border post) for a constant period from 3 June to 30 August 1991 – three of sixteen detached duty call-ups run by Group 8 in East London over the three years from 1989–91. There was what appears to have been an additional "monthly camp" for 8 June to 2 July to the Kaffrarian Rifles in East London. There was also an "ops duties" call-up for the East London Commando from 13 to 27 June involving one company for "Ciskei stabilisation". The availability of additional troops in the region during the Abbot time period was greater than during the period for the November 1990 Duli operation.
- 166 In the run-up to the expected 15 June payday crisis, there was an increase in tension between the Transkei and South African authorities, including:
  - a In mid-May, Holomisa denied allegations that he had appointed Chris Hani as Transkei's Minister of Police and Defence and that Hani was amassing guerrillas in Transkei;
  - b On 24 May, Holomisa denied allegations that his government had made a loan to MK from the civil servants' pension fund;
  - c Foreign Affairs Minister Pik Botha gave weekend newspapers a press conference on Transkei's financial affairs and Holomisa accused him of deliberately provoking a financial crisis in Transkei in order to encourage a coup attempt. Holomisa claimed the South African government had delayed passing the Transkei budget;

- d On 11 June, Holomisa flatly denied reports that the ANC had established two training bases in Transkei at a cost of R250 000;
- e On 12 June, Pik Botha told Parliament that there had been no transgressions of the non-aggression and bilateral agreements South Africa had with Bophuthatswana, Venda and Ciskei, and that similar agreements with Transkei had been terminated by Transkei on May 10, 1978;
- f On 13 June, pamphlets calling for Holomisa's resignation were circulated in Transkei, apparently dropped by air, by a previously unknown group calling themselves "The Voice of Bona Fide Transkeians". Speculation at the time was that these pamphlets had been dropped by the South African government.

167 There was also increasing concern among the security forces in June 1991 that Gqozo's Ciskei government was on the verge of being overthrown by dissident former CDF members acting together with MK elements. Whether such a plan was in process or not, IR/CIS was submitting "Top Secret" source reports to Gqozo (and presumably also to SADF MI as was routine for IR/CIS) stating that such plans were underway.

168 It is not clear what happened to stop *Abbot* from going ahead. Possibly it was aborted because of the widespread rumours of a South African-sponsored attack. It is possible the *Abbot* plan may have been revived two years later. On 31 March 1993 the SADF and SAP threw a blockade around southern Transkei for several days, in what was widely regarded at the time as an economic blockade. This appears to fit in with the "phase two" described in the *Abbot* plans.

#### ***The killing of Charles Sebe and Onward Guzana***

169 On the night of 27 January 1991, Ciskei rebels Charles Sebe [EC0904/96CCK] and Mangwane Onward Guzana [EC0405/96ELN] drove into Ciskei in the belief that a coup attempt was underway or had just taken place and that they were to head the new government with the support of the Ciskei troops. Guzana was a former CDF officer who had formed the military government with Gqozo until he was detained on allegations of coup plots and subsequently fled to Transkei. Here he linked up with Sebe, who had been in Transkei since his 1986 jailbreak.

170 Instead of driving into Bisho to take over the government they drove into a CDF roadblock where Guzana was shot dead. Sebe fled, was captured the following day in a nearby village and shot dead.

171 A lengthy inquest ensued and, as a result, murder charges in connection with Sebe's death were brought against Gqozo and his bodyguard, Thozamile Veliti. Both were acquitted. It emerged at the court proceedings that there had been a deliberate plot by IR/CIS to lure Sebe and Guzana back to Ciskei on the pretext of a "coup attempt". The inquest found that IR/CIS chief Anton Nieuwoudt worked together with Gqozo "in all the planning stages of the plot to eliminate the threat posed by Sebe and Guzana" and that while the two rebels believed they were involved in a coup attempt, "Nieuwoudt and company knew there was no inside component [to the coup attempt] and knew there was no danger to any interested party in Ciskei. The trap was set for one purpose only: to rid the regime in Ciskei under Brigadier Gqozo of any further threat from Sebe and Guzana"<sup>6</sup>.

172 The inquest could not make a finding on how Guzana was killed, but found that Sebe's death had been ordered by Gqozo and carried out by Veliti and others. The subsequent murder trial acquitted both Gqozo and Veliti, finding that there was no direct evidence that Veliti had fired at Sebe, that there was a reasonable doubt as to whether Sebe had been killed on the basis of an order from Gqozo, and that it was not proved that Gqozo had issued an order to kill Sebe unlawfully. The trial judge did however find that Sebe had been killed unlawfully.

173 The Commission received an amnesty application in connection with this matter from IR/CIS member Clive Brink [AM6373/97], who was stationed at the roadblock during the operation.

#### ***Counter-mobilisation: The African Democratic Movement***

174 The African Democratic Movement (ADM) was set up by the Ciskei government in July 1991. As a political party led by Brigadier Gqozo, the ADM aligned itself with Inkatha and with right wing groups in the Concerned South Africans Group (COSAG).

175 Throughout its brief history, the ADM was involved in violent clashes with the ANC. After the Bisho massacre of September 1992, these clashes erupted into more overt warfare, with increasingly sophisticated weapons being used (see the Eastern Cape regional profile elsewhere in this report). The highest number of attacks appeared to have been carried out by the ANC-aligned groups.

176 By late 1991 Ciskei had hired a private security company, Peace Force, to protect government property. Peace Force was given the use of the Ciskei's Wesley military

<sup>6</sup> Inquest findings by Judge MH Claassens, Bisho, 30/8/93

base on the coast, where it ran brief training courses for ADM-supporting recruits. There were allegations that these recruits were then involved in violent clashes with ANC supporters.

177 In late 1993 and early 1994 there were several armed hit squad-style attacks on ANC supporters in the Ciskei. Five men were subsequently charged with murder, attempted murder and weapons charges in connection with these attacks; they were all acquitted. They were Titise Mcoiyana (the ADM chairman), Vuyisile Madikane, Dingaan Somtsora, Mongezi Reuben Solani (a bodyguard to Gqozo) and Jeffrey Moshumi (former MK member from the Western Cape).

#### ***The Bisho massacre, 7 September 1992***

178 The Bisho massacre occurred on 2 September 1992 when thousands of ANC supporters, marching from King William's Town to Bisho, capital of the 'independent' Ciskei were fired on by Ciskei government troops. The march had been organised in support of demands for free political activity in the Ciskei and for the removal of Brigadier Oupa Gqozo. Twenty-nine marchers died and one member of the CDF, Rifleman Vusumzi Sydney Nqabisa, was also shot dead. There were conflicting accounts of the soldier's death in the various inquiries; however ballistics indicated he was shot with an R4 rifle.

179 The Commission received a considerable number of statements in connection with deaths and injuries sustained in this event. Two public hearings were held on this matter during 1996, with testimony from victims of the shooting, politicians (including Brigadier Oupa Gqozo) and security force members.

180 The Commission heard that shortly before the main body of the March reached the stadium, an ANC advance party arrived at the border to assess the situation. This group found the gap in the fence: as a result the ANC decided that part of the march led by ANC officials including Ronnie Kasrils and Chris Hani would go through this gap and head for Bisho. Kasrils told the Commission:

*We broke into a run, beckoning others to follow with the intention of moving as swiftly as possible out of the gap and away from where the soldiers were deployed. We had covered approximately fifty metres when, without any warning whatsoever, the soldiers began shooting at us with automatic rifles ... The firing seemed to last for ages, but it has been estimated that there was one full minute of concentrated fire, then a pause of approximately ten to twenty seconds, followed by a second round of volley fire lasting approxi-*

*mately thirty seconds ... If there had been a warning, we would have halted, and if warning shots were fired, we would certainly have retreated.*

- 181 Kasrils said he would never have believed that the soldiers would have opened fire in this way. "I accept in a profound moral sense that I was an element in the events that culminated in the massacre, and it still haunts me that perhaps we could have done more to avoid the terrible outcome," he said.
- 182 Lieutenant Colonel (now Colonel) Vakele Archiebald Mkosana [AM4458/96], the Officer Commanding 1 Ciskei Battalion and the Field Commander of the CDF troops, was present among the troops when the marchers ran towards them. He said he radioed his superiors, reported that the troops were under fire and, on that basis, received orders to open fire. Mkosana gave the order to open fire to the troops and, according to the CDF planning, only single shots were to have been fired. However firing was picked up by troops around the stadium and even machine gun fire and rifle grenades were used.<sup>7</sup>
- 183 Mkosana made various statements about the incident. In general, these statements confirm that he requested and received permission to open fire; however there are conflicting statements about the reasons for opening fire and the firepower used.
- 184 Ballistics expert Jacobus du Plessis told the Commission that nine marchers and the soldier were struck in the head and two marchers in the neck. Ten marchers were shot from behind while none of them were shot directly from the front. At least fourteen people were apparently shot while lying down or bending over. This seems to indicate that most people were shot while trying to flee. Du Plessis said that 404 cartridge cases, all from 5.56 mm bullets used in R4 rifles, were picked up at the scene. He was able to determine that these had been fired by 107 different weapons. He could not estimate how many rounds had been fired except that it was at least 404. Four rifle grenades were fired by the CDF.
- 185 The event is documented fully in the chapter on the Eastern Cape in Volume Three, where the Commission made a comprehensive finding on the massacre and on the role played by the Ciskei security forces and the ANC.

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<sup>7</sup> Mkosana's reports to his superiors and the authorisation to open fire were confirmed by Oelschig and Van der Bank to the CDF inquiry and to the Commission.

## KwaZulu-Natal

### ***The IFP, KZP and the battle for supremacy in KwaZulu and Natal***

186 Inkatha was found to be the foremost perpetrator of gross human rights violations in KwaZulu and Natal during the 1990s. Approximately 9 000 gross human rights violations were perpetrated by Inkatha in KwaZulu and Natal from 1990 to May 1994. This constituted almost 50 per cent of all violations reported to the Commission's Durban office for this period.

187 With the unbanning of the ANC and other affected organisations in February 1990, Inkatha's free reign in KwaZulu and Natal was threatened. A substantial recruitment drive was initiated by the IFP after its reconstitution as a political party in July 1990.

188 Open contests for support between the two parties took the form of territorial battles for the control of communities and geographical areas, leading to frequent and widespread outbreaks of conflict and violence in the province. Tens of thousands of people were affected by the violence – suffering death, injury, maiming, bereavement and displacement on a large scale.

189 The Seven Day War in 1990 was one of the most significant events in the history of political violence in the province during the period. The Seven Day War is the collective name given to the events that occurred in the greater Edendale Valley in the greater Pietermaritzburg area in the seven days from Sunday 25 March 1990.

190 In fact, the violence took place over many more than seven days. Over 100 people were killed, some 3 000 houses were destroyed by fire and approximately 30 000 people fled their homes as a result of the violence. The vast majority of the people killed and injured were from the non-Inkatha areas, and the vast majority of the property damaged, burned and looted belonged to non-Inkatha supporters.

191 The IFP did not give the Commission an official account of its involvement in the Seven Day War. Almost every witness who appeared at the special public hearing into the Seven Day War, other than the SAP and the SADF, laid the blame for these events at the feet of IFP members. Several witnesses, who were at the time residents of the worst hit areas like KwaMnyandu, Gezubuso and Caluza, and who witnessed acts of murder and arson, said that it was a complete misnomer to refer to this event as a war. A resident of KwaMnyandu, Mr Enoch Zondi, told the Commission that it was more like "a reign of terror".

192 The thousands of Inkatha supporters who took part in the armed attacks must bear overwhelming responsibility for the gross violations of human rights that took place during that week. Nonetheless, young UDF and ANC refugees must accept responsibility for starting the conflagration when, on 25 March, they stoned and attacked buses carrying IFP supporters travelling through Edendale on their return from a rally at King's Park, Durban. Tension mounted when leaders of the IFP made inflammatory speeches at further public gatherings of IFP supporters.

193 The Seven Day War is documented in Volume Three of this report; here the focus is on the involvement of the security forces. Some witnesses testified to watching in disbelief as police provided buckets of ammunition to the armed attacking combatants. Others described seeing uniformed and armed special constables participating on the side of Inkatha combatants, while yet others spoke of armed and uniformed KwaZulu policemen assisting Inkatha attackers. Several witnesses testified about large numbers of KwaZulu government trucks, with their registration plates obscured by sacking, conveying large numbers of men armed with traditional weapons and guns to the scene of the conflict.

194 The version given to the Commission by special constables Nelson Shabangu, Nhlanhla Philemon Madlala and Riot Unit Constable Basil Harrington described open complicity between the police and IFP forces. The Commission heard that on Wednesday 28 March 1990, IFP leader Mr David Ntombela held a meeting of Inkatha supporters at his house in the Elandskop area. After this meeting, Ntombela instructed a member of the SAP Riot Unit to pick up a large group of special constables in a police vehicle and proceed to Gezubuso. Shabangu said that he drove a Riot Unit vehicle to pick up special constables. He met up with a large Inkatha crowd, including Ntombela and went with the group to the outskirts of KwaShange. There he watched with other members of his Riot Unit while the special constables attacked, burned and looted houses at KwaShange, and returned with stolen property. This was loaded onto a police vehicle and taken to Ntombela's home, along with cattle, which had been stolen from the residents of KwaShange. Fifteen people were killed in this attack.

195 There is evidence that police provided logistic support to Inkatha members, gave them ammunition, took part in the attacks side by side with them, refused to deploy Defence Force resources in areas where attacks were taking place, and made them available only to ensure that Inkatha members were not attacked on the Edendale road.

THE COMMISSION MADE A COMPREHENSIVE FINDING ON THE SEVEN DAY WAR AND ON THE ACCOUNTABILITY OF THE PRIMARY ROLE-PLAYERS IN A CONFLICT THAT RESULTED IN THE COMMISSION OF MANY HUNDREDS OF GROSS VIOLATIONS OF HUMAN RIGHTS. THE ROLE-PLAYERS INCLUDE: MEMBERS AND SUPPORTERS OF INKATHA, INKATHA MIDLANDS LEADER, MR DAVID NTOMBELA, THE KZP, THE KWAZULU GOVERNMENT, THE RIOT UNIT OF THE SAP, INCLUDING SPECIAL CONSTABLES, AND THE SOUTH AFRICAN DEFENCE FORCE. THE COMMISSION ALSO MADE A FINDING IN RESPECT OF THE PROVOCATIVE ROLE OF MEMBERS OF THE UDF IN THE CONFLICT.

### ***The issuing of G-3 rifles***

- 196 As early as 1974, Buthelezi requested that the South African government grant firearms licences to "all chiefs for the destruction of vermin and to deserving businessmen and other Zulus of repute who need these firearms for the protection of their businesses and themselves". Again in 1985, Buthelezi approached the former government with a request for "the authority to issue licenses for the carrying of firearms".
- 197 In 1990, an amendment to the Natal Zulu Code of Law virtually legalised the carrying of dangerous weapons and the arming of the *amaKhosi* (chiefs). The department of the Chief Minister circumvented normal weapons' licensing regulations by making automatic weapons available to state functionaries for the protection of KwaZulu government property. G-3 semi-automatic rifles were issued to chiefs and headmen through the Department of the Chief Minister. These chiefs and headmen were in turn able to issue weapons, by way of permits, to their 'tribal police' or 'community guards'. By law, these weapons were to be used to protect KwaZulu government buildings and property. Evidence points to the fact that they were also put to use in clashes between ANC and IFP supporters.

### ***Hostel violence***

- 198 After February 1990, township residents in the province tended to join with the ANC while hostels became the point of entry for Inkatha into the townships. Strangers entering the hostels were frequently suspected of being from the township and were killed. Similarly, hostel-dwellers travelling through the township to and from the hostels were frequently attacked by township youth.
- 199 In Bruntville outside Mooi River in the Natal Midlands, hostel-dwellers were predominantly Inkatha-supporting and members of the Inkatha-aligned United Workers' Union of South Africa (UWUSA). In contrast, the Bruntville township residents were predominantly ANC-supporting and members of Congress of South African Trade Unions (COSATU).

200 On 8 November 1990, sixteen township residents were killed during a massive pre-dawn attack by approximately 1 200 hostel-dwellers and other Inkatha supporters, who had been brought in especially to assist in the attack. About 1 500 people, mainly women and children, fled their homes in the aftermath of the attack.

201 Violence continued throughout the following year. Hostel-dwellers frequently paraded through the township of Bruntville with their traditional weapons. While the township residents were frequently disarmed and subjected to weapons searches by members of the security forces, the hostel-dwellers were permitted to brandish openly their traditional weapons. In October 1991, the ANC called a stay away-boycott to protest against what they perceived to be differential treatment.

202 On the night of the 3 December 1991, eighteen people were killed when large armed groups of Inkatha hostel-dwellers launched two large-scale attacks on houses and residents in the township. No prosecutions resulted and there is no evidence of an investigation having taken place.

203 Many hostels in the Transvaal were inhabited largely by migrant Zulus from rural KwaZulu who had sought employment in the mines and industries in the Transvaal. Township residents viewed them as outsiders. The hostel residents used their common ethnic identity as a means of uniting in a hostile urban environment. These Zulu migrants became a springboard for Inkatha's attempt to penetrate the urban Transvaal and launch itself as a national political force.

204 The initial hostel-related violence in the PWV region was signalled by a series of attacks on the Sebokeng Hostel beginning on July 22 1990. The violence rapidly spread to the East Rand, Soweto, the West Rand and Alexandra township. Over 200 township residents were killed in large-scale massacres perpetrated by IFP-supporting hostel-dwellers. Hundreds more died in running street battles between IFP hostel-dwellers and ANC township residents. Examples of some of the massacres carried out by IFP hostel residents in the Transvaal include:

- a The massacre in Sebokeng on 22 July 1990 in which twenty-seven people were killed by a group of approximately 1 500 IFP supporters who attacked Sebokeng residents after an IFP rally in the Sebokeng stadium. The attackers included busloads of Zulus from KwaZulu and various Transvaal hostels. Over the next four days, battles between Inkatha followers and ANC adherents followed, leaving thirty people dead.

- b The pre-dawn killings in Katlehong during August 1990 in which Thokoza (IFP) hostel inmates killed twenty-four people in the Crossroads squatter settlement in Katlehong.
- c The massacre in Sebokeng on 3 September 1990 in which twenty-three people were killed when Inkatha allegedly tried to lay siege to and occupy the Sebokeng hostel (see above).
- d The killing of forty people in an attack by hostel-dwellers on a night vigil in Sebokeng on 12 January 1991.
- e Events on 26 March 1991 in which fifteen people were killed and sixteen others injured in an attack on a night vigil in the Alexandra Township. Six members of the IFP were later arrested and appeared in Rand Supreme Court. All were acquitted.
- f The pre-dawn massacre in Swanieville (West Rand) on 12 May 1991 by approximately 1000 Inkatha hostel residents from Kagiso on residents of the Swanieville informal settlement which left at least twenty-seven people dead and scores injured. Inkatha spokesperson, Ms Suzanne Vos said that the attack was a response to the earlier abduction of two hostel dwellers by Swanieville residents.
- g The Boipatong massacre of 17 June 1992 launched by a group of some 200–300 inmates of the KwaMadala hostel. Fifteen Inkatha supporters, all of whom were serving long prison terms for their role in the massacre, applied for amnesty for their roles. All fifteen applicants claimed they acted on the instructions of the IFP leaders in KwaMadala hostel, namely a Mr Bheki Mkhize and a Mr Chonco.

### ***Hit squads***

205 Hit squad activity became widespread in KwaZulu and Natal during the 1990s. From information received by the Commission, it would appear that the hit squad operations were predominantly supportive of the IFP, drawing in officials of the KwaZulu government, the KZP and senior politicians and leaders of the party. As such, hit squad members had access to KwaZulu government resources such as vehicles, arms and ammunition. A measure of protection from prosecution was made possible through the collusion of the KZP and instruments of the state security forces.

206 In May 1990, Colonel MA van den Berg (MI) compiled a memorandum reporting on a meeting between himself, Colonel 'Cor' van Niekerk (also MI) and Chief Mangosuthu Buthelezi on 31 October 1989. In the memorandum, Van den Berg reported that Buthelezi had expressed concern that he was "losing the armed struggle and in that regard emphasised that 'offensive steps' were still a necessity, meaning the deployment of 'hit squads.'" When questioned on this passage, during a section 29 hearing, Van den Berg said he doubted that Buthelezi had used the actual words "hit squad". However, he said that he was "entirely convinced" that the offensive actions Buthelezi had in mind at this stage were indeed hit squad activities, including assassinations.

207 In the same 2 May 1990 memorandum, Van den Berg recorded that Inkatha's Mr MZ Khumalo (codenamed Reeva) indicated that "he had not yet given up on his idea of an armed force, or at the least 'cells' which could take out undesirable members."

208 In the Wartburg area during 1990, a Roman Catholic priest Father Garth Michelson wrote a letter to former Minister of Law and Order Adriaan Vlok, in which he expressed his concern that there was a police hit squad operating in the Mbava area, near Wartburg. He raised these concerns following the murder of two UDF activists, Mr Vusi Ngcobo and Mr Bonakwe Gasa [KZN/HG/922/NY], on the 6 January 1990. Vlok responded to Michelson's letter on the 30 July 1990 as follows:

*Investigations instituted have proved that so-called hit squads do not exist in the South African Police. This is a far-fetched figment which exists only in the imaginations of certain individuals, organisations, etc. and has no foundation whatsoever.*

209 Ngcobo and Gasa had been shot and killed in a mealie (corn) field in Swayimane. Witnesses said that one white and three black men wearing light blue shirts similar to the SAP uniform carried out the killing. The four men were seen arriving at the home of KwaZulu MP Mr Psychology Ndlovu in a yellow police van and then proceeding from Ndlovu's home in a white Cressida with a private registration number.

210 An informal inquest held in 1991 found that "persons unknown" were responsible for the deaths. A second inquest was held in May 1995 at which inquest magistrate RA Stewart found that former special constable Welcome Muzi Hlophe (aka

'BigBoy'), SAP Lance Sergeant Peter Smith, KwaZulu government driver Mr Abraham Shoba and a fourth unknown man were *prima facie* directly responsible for the murders. He also found that the original investigating officer, Major Joseph van Zyl, was an accessory to the murders and recommended that an investigation be opened with a view to a possible conviction of Van Zyl (also implicated in the Trust Feed massacre). He further found that the then secretary of the KwaZulu Legislature, Mr Robert Mzimela (at present deputy speaker of the KwaZulu-Natal parliament), KwaZulu employee ZG Mkhize (now an IFP member of the KZN parliament) and then head of the KLA Protection Unit Major Leonard Langeni (now retired) had been implicated in a cover-up operation.

- 211 KwaZulu-Natal Attorney-General Tim McNally declined to prosecute any but Hlophe and Smith. He further failed to pursue any investigations in respect of the other findings made by the inquest court. Hlophe and Smith were subsequently acquitted in the Pietermaritzburg Supreme Court.
- 212 Politically motivated violence between supporters of the ANC and Inkatha erupted in 1991 in the Esikhawini area near Richards Bay. A meeting was called at KZP Captain Leonard Langeni's office in Ulundi some time in early 1991. At the time, Langeni was the officer commanding the then KwaZulu Legislative Assembly Protection Unit. Others present at the meeting were Mr Daluxolo Luthuli, Prince Gideon Zulu (then KwaZulu Minister of Pensions), Mr M R Mzimela (then Secretary of the KwaZulu Legislature), and Mr M Z Khumalo (then personal assistant to Buthelezi). It was agreed that a group of reliable, trained operatives would be brought together to undertake operations directed at targeted members of the political opposition, members and supporters of the UDF and ANC.
- 213 Caprivi Trainee Gcina Mkhize was the first to be conscripted into this group. He testified that he was told that "the time had arrived to use the skills acquired at the Caprivi" and he was instructed to work directly with the mayor of Esikhawini, Mr BB Biyela, and IFP councillor Ms Lindiwe Mbuyazi. He was to report directly to Major Langeni and Daluxolo Luthuli. Mkhize was told to gather reliable people to assist him.
- 214 Initially, the plan was that he would assist Inkatha youth who were already involved in carrying out attacks in ANC dominated areas. He worked with IFP youths including a Mr Mathenjwa, Mr Lucky Mbuyazi, Mr Siyabonga Mbuyazi and others. Captain Langeni arranged for Mkhize to collect weapons for their activities from a Caprivi trainee based at Port Durnford, by the name of Mr Thomas Buthelezi.

215 The youth were unable to prevent the ANC from continuing to launch attacks on Inkatha members. This was reported to Langeni and Luthuli.

216 Over the next few months, a number of other meetings took place both in Ulundi and Esikhawini at which the operations and composition of the hit squad were discussed. It was decided to form a more sophisticated hit squad. Mkhize proposed former KZP member Mr Romeo Mbubo Mbambo [AM4598/97]. Luthuli proposed Mr Israel Nyoni Hlongwane [AM4600/97] who had been involved with Luthuli in the violence in Mpumalanga and Mr David Zweli Dlamini [AM3685/96], a 'Caprivi trainee' who had been involved acts of violence in both Clermont and Mpumalanga. Others included in the hit squad were Caprivi trainees PS Ndlovu and Jethro Mthethwa and KZP Constable Victor Buthelezi.

217 Mkhize was the leader of the group and in the main took instructions from Captain Langeni. Ms Mbuyazi and Mayor BB Blyela were aware of their activities and, in specific instances, provided actual support to their operations. Less frequent co-conspirators included Prince Gideon Zulu from Eshowe, Chief K Mathaba from Nyoni and Mr Robert Mkhize from Empangeni.

218 Ms Mbuyazi arranged with the district commissioner Brigadier Mzimela for the transfer of Romeo Mbambo to the Detective Branch where he would be in a position to cover up the crimes of IFP supporters and prevent their arrests. Mkhize was already a member of the Esikhawini Internal Stability Unit and his instructions were to ensure that patrols would take place away from where Inkatha was planning to attack. Mbambo's instructions were to ensure that cases against the hit squad members were not properly investigated by destroying evidence and making misleading entries in the police dockets. The hit squad was to carry out attacks on those nights when Mbambo and Mkhize were on duty.

219 Between 1991 and August 1993 (when Mbambo was arrested by members of the SAP), the hit squad killed and attempted to kill a large number of people in Esikhawini and surrounds, including people in the Mandini and Eshowe areas. Prominent Inkatha-aligned officials supplied ongoing direction and logistic (weapons, ammunition, vehicles, accommodation, finance and so on support) to the operatives. A number of hit lists were compiled at meetings with the IFP leaders. The hit squad's targets were all ANC leaders, members or sympathisers. The hit squad was *inter alia* responsible for the killings of Mr Naphtal Nxumalo, Mr Nathi Gumede, Mr April Taliwe Mkhwanazi, Sergeant Dlamini, Sergeant Khumalo, Mr John Mabika and four young MK members killed at a *shebeen*. In addition to

targeting particular individuals for assassination, the hit squad also carried out dozens of random attacks on shebeens, bus stops, buses and streets where it was known that ANC supporters gathered.

220 Ms Zanele Cecilia Taliwe [KZN/NG/006/EM] told the Commission that her husband, April Taliwe Mkhwanazi, a shop steward for a COSATU-affiliated trade union and employed at the Mondi paper mill in Richards Bay, was killed on 19 April 1992. Mkhwanazi was also an active member of the ANC. He had received a number of threats. On the morning of his death, he told his wife that if he died she should know that Gcina Mkhize would be one of the suspects. Mkhize, Mbambo and Dlamini all implicated themselves in the killing. According to Mkhize, the instruction for the murder came from Major Langeni and Mayor BB Biyela provided his vehicle for their use. The murder was planned at the home of Ms Mbuyazi. Mbambo told the Commission that he reported back to Luthuli, Langeni and MZ Khumalo. He said they congratulated him and expressed their pleasure about the killing.

221 Members of Gcina Mkhize's hit squad killed Sergeant Khumalo, a KZP member stationed at Esikhawini, on 8 May 1992. Khumalo had been identified for assassination by the local IFP leadership because it was suspected that he was an ANC member and was leaking details of dockets to the local ANC leadership. He was killed with the approval of Captain Langeni. (Amnesty applications of Gcina Mkhize [AM4599/97] and Romeo Mbambo [AM 4598/97]; [KZN/NNN/507/EM].)

222 Sergeant Dlamini, also a KZP member stationed at Esikhawini, was shot dead by Israel Hlongwane on the 19 June 1993. Romeo Mbambo, Mthethwa and Gcina Mkhize accompanied Hlongwane. Mkhize, Mbambo and Hlongwane were all found guilty of murdering Dlamini in the Durban Supreme Court in 1995. According to the amnesty applications of the three convicted men, Sergeant Dlamini was identified for assassination by the local IFP leadership because he was supplying the Goldstone Commission with information regarding hit squad activities in Esikhawini. He was also thought to be an ANC supporter as he was allegedly selling ANC T-shirts.

223 Both Mbambo and Mkhize alleged that Mzimela, assisted in covering up their involvement in Dlamini's murder by tampering with the murder weapon. In passing judgement on the matter, Mr Justice van der Reyden said that the court had heard evidence about the initial investigation of Dlamini's death that could only be described as "disturbing". Van der Reyden said that it would be improper for the court to make specific findings concerning the initial investigation without

giving the other parties an opportunity to reply. He therefore chose to refer the allegations made concerning the alleged cover-up by Brigadier Mzimela and others to the Minister of Safety and Security for investigation. Flowing from this, the Ministry appointed the Investigation Task Board (ITB), which was tasked with overseeing the investigation into hit squad activities in the province by the Investigation Task Unit (ITU).

- 224 Members of the Esikhawini-based hit squad led by Gcina Mkhize alleged that KwaZulu Cabinet member, Prince Gideon Zulu, summoned them to a meeting at his home sometime in 1993. Those present were Zulu himself, Gcina Mkhize, Romeo Mbambo, Daluxolo Luthuli, Robert Mzimela, Chief Khawula, Langeni, Chief Biyela and Mr Nyawuza (Prince Zulu's driver). Zulu told them that he wanted the hit squad members to kill Eshowe ANC leader Mr Sam Nxumalo.
- 225 The hit squad members were given a car from the chief minister's department. On the given day Mkhize, Mbambo, Dlamini and Hlongwane drove to the Eshowe Hospital. It appears that Nxumalo had somehow been warned of the planned assassination and, when he saw the operatives arrive at the hospital, he phoned the SAP who arrived within minutes. The operatives then left and decided to return later. That night they returned to the hospital but it was full of police so they again postponed the hit.
- 226 In his evidence to the Commission, Israel Hlongwane admitted he was involved in several murders and attempted murders in the Sundumbili area during 1992 and 1993. He alleges that local IFP leaders Bongani Hadebe and Shakes Mhlongo, as well as Chief Mathaba, a Mr Mpanza and Mr Jerry Mdanda provided him with a list of the names of about fifteen people they wanted him to kill. Hlongwane's victims include Siduduza Cedric Khumalo (an ANC scholar he shot dead on 31 October 1992), Sipho Thulani Xaba (also known as 'Gindinga', ANC leader at Odumo High School), Themba Mkhukhu and Mr Mncedisi Kalude (two scholars from the Tugela High School shot dead on 7 August 1993), Mr Daludumo Majenga (shot dead on 29 March 1993), and Mr Canaan Shandu (a COSATU official).
- 227 Bheki K Mzimela, an *induna* located in Chief Mathaba's area of Nyoni, was alleged to be sympathetic towards the ANC because he supported the ANC's call for a ban on the carrying of traditional weapons. Mathaba enlisted the help of the Esikhawini-based hit squad led by Gcina Mkhize to kill Mzimela. Three members of the hit squad, namely Mkhize, Zweli Dlamini and Israel Hlongwane, together with Jerry Mdanda and a man identified only as Dumisani, went to *Induna*

Mzimela's home on the night of 23 March 1992 and shot him dead. (Amnesty application of Mkhize [AM 4599/97] and Hlongwane [AM4600/97]).

228 The SAP arrested Gcina Mkhize, Romeo Mbambo and Zweli Dlamini in 1993. Advocate Neville Melville, police reporting officer, and the Goldstone Commission insisted that the SAP rather than the KZP make the arrests. In respect of Mkhize and Mbambo, an attempt was made by Brigadier Mzimela, Captain Langeni and others to prevent them from being arrested.

229 In 1994, the three were convicted for a number of crimes carried out by the hit squad. In mitigation of sentence, they argued that the hit squad had been set up by senior IFP, KwaZulu government and KZP members based in Ulundi and Esikhawini. Accepting their evidence in mitigation, the presiding judge, the Honourable Mr Justice Van der Reyden, said that when the trial commenced he had been taken aback by the appalling standard of investigation by the KZP. However, he later realised that what he had taken for incompetence was in fact a deliberate design to cover up. He said that the three accused could not have acted alone and called for "a full investigation into the alleged involvement of those persons identified by the accused as the masterminds and puppet masters behind the Esikhawini Hit Squad".

230 In 1994, the ITU was mandated to investigate the allegations of the three accused in the Mbambo matter. In June 1996, the ITU presented a comprehensive report to Natal Attorney-General, Mr Tim McNally, in which they recommended the prosecution of eight IFP/KZP/KwaZulu government officials: Prince Gideon Zulu, Mr M R Mzimela, Major M L Langeni, Mr Robert Mkhize, Ms Lindiwe Mbuyazi, Chief Mathaba, Mr BB Biyela and Brigadier CP Mzimela. In the report the ITU argued that:

*These persons utilised their position in the government and police, the very institutions which were meant to uphold law and order, to facilitate a murderous hit squad network ... It is imperative that those who manipulated and used young operatives, who believed that they were acting with impunity, be prosecuted as vigorously as the operatives have been.*

231 McNally declined to prosecute any of the suspects on the grounds that there were discrepancies between statements made to the ITU by the key witnesses and statements they had previously made to the Goldstone Commission and the SAP. To date, none of the Esikhawini hit squad's hierarchy nor any of the other operatives have been prosecuted.

THE COMMISSION MADE A COMPREHENSIVE FINDING IN RESPECT OF THE ESIKHAWINI HIT SQUAD IN THE FINDINGS CHAPTER. ACCOUNTABILITY FOR GROSS VIOLATIONS OF HUMAN RIGHTS IS APPORTIONED TO THE FOLLOWING PEOPLE: PRINCE GIDEON ZULU, MR M R MZIMELA, MAJOR M L LANGENI, MR ROBERT MKHIZE, MS LINDIWE MBUYAZI, CHIEF K MATHABA, MR BB BIYELA AND BRIGADIER C P MZIMELA.

232 In Wesselton and Ermelo (Transvaal), a group called the 'Black Cats' engaged in violent attacks on members of the newly unbanned ANC from 1990 to 1992. Over twenty people were killed and some of its own members were killed in counter-attacks. At least one Black Cat member was killed by another Black Cat member after testifying to the Goldstone Commission.

233 The Black Cats, supported by certain community councillors, received military training from Inkatha at the Mkuse camp in KwaZulu Natal in the early 1990s. IFP hit squad member, Mr Israel Nyoni Hlongwane, was sent to Ermelo for a while to assist in the direction of Black Cats operations. During this time, he was involved in the murder of numerous perceived ANC sympathisers. Hlongwane told the Commission that SAP members met with him and arranged suitable conditions as well as cover-ups of the Black Cats crimes. Hlongwane said that he stayed at the home of the local IFP Chairperson Mr Nowa Mqhabokazi in Ermelo, who provided him with guns and ammunition and instructed him to kill various prominent ANC members, ANC youths and suspected ANC sympathisers. Hlongwane was also approached by the IFP-supporting mayor of Davula township who requested his (Hlongwane's) assistance in eliminating the ANC in his township. Hlongwane gave examples of how the local police assisted in covering up the operations of the Black Cats. During his stay in Ermelo, Hlongwane was supported by the mayors of Davula and Ermelo who each paid him R800 and provided him with groceries.

#### ***Train violence***

234 Both local and regional IFP leadership were involved in the authorisation and planning of train violence. As indicated in the previous section, of the three people convicted for their participation in train violence, two were IFP members. Mr Albert Msuseni Dlamini, a resident of Mazibuko hostel in Katlehong [AM1557/96] was involved in an attack on Katlehong station on 9 October 1991. He was convicted in April 1993 and sentenced to ten years' imprisonment on one charge of attempted murder and one of the illegal possession and use of a .38 revolver. Mr Xolani Mnguni [AM3551/96] received the death sentence in February 1993 for the murder of Mr William Matsosale on 29 November 1992 at a Naledi-Cleveland train. He said that he was acting under the orders of a certain Hadebe of the IFP who allegedly

issued an order to kill any ANC supporter or any person speaking badly about Buthelezi. Xolani and an accomplice entered a coach on the train to Cleveland, which they knew was occupied by ANC supporters.

- 235 A witness before the Goldstone Commission testified that IFP leaders Mr Themba Khoza, Mr Musa Myeni, Mr Humphrey Ndhlovu and Mr Zondi were involved in train violence. The witness, a former Nancefield hostel-dweller himself, testified that two train attacks had been planned at the Nancefield hostel (Kliptown Station, 25 June 1991 and Nancefield Station, 23 October 1991). The witnesses' testimony resonates with the statement of Mr Xola Frank 'Jimmy' Mbane who also refers to Nancefield hostel-dwellers being used in train attacks.
- 236 On 25 June 1991, an attack on Kliptown station left seven people dead and eighteen injured. The SAP arrested three men from Nancefield hostel in connection with this incident. Charges were later withdrawn due to lack of evidence.

#### ***The KwaZulu Police***

- 237 The vast majority of reported cases of the alleged involvement of members of the KZP in gross violations of human rights occurred in the period 1990 to 1994. The victims were almost exclusively people perceived to be sympathetic towards the ANC. The exception was a handful of KZP members who were killed by their own colleagues after they refused to cover up Inkatha or KZP criminal activity. Mention was made above of the KZP's role in the Seven Day War, in hit squad activities and in training the 'Black Cats'. In addition, KZP members were regularly seen transporting Inkatha perpetrators to the scene of attacks. They collaborated with IFP vigilante groups in intimidating and attacking non-IFP supporters. They refused to investigate cases of political violence reported by UDF/ANC supporters. They disrupted UDF/ANC rallies. They frequently failed to respond to calls from UDF/ANC supporters under attack. They openly participated in attacks on UDF/ANC supporters, including murder, shootings, assault, abduction, arson attacks, harassment and torture. The KZP were also deeply involved in providing para-military assistance to the IFP (see below).
- 238 A number of KZP stations gained certain notoriety for severe misconduct and partisan policing. These included Umlazi, KwaMashu, KwaMakhutha, Madadeni, Sundumbili and Esikhawini.

**THE COMMISSION FINDS THAT THE KZP WERE OVERWHELMINGLY BIASED IN FAVOUR OF THE IFP AND THAT THEY ARE ACCOUNTABLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS INCLUDING KILLING, ATTEMPTED KILLING, ABDUCTION, TORTURE AND ARSON.**

### ***July 1993 to May 1994: resistance and insurrection***

239 In the run-up to the 1994 elections, Inkatha came into conflict with the central government and the Transitional Executive Council (TEC) concerning the issue of independence and sovereignty for KwaZulu. Inkatha adopted a publicly declared militant stance towards the rejection of its demands, culminating in a decision not to participate in the April 1994 elections. It was only on 19 April 1994, just six days before the elections, that Inkatha did an about-turn and announced that it *would* contest the elections. In the interim period, KwaZulu and Natal experienced the worst wave of political violence in the region's history. Approximately 3 000 gross violations of human rights were perpetrated by Inkatha in KwaZulu and Natal from July 1993 to May 1994. This constituted more than 55 per cent of all violations reported to the Commission's Durban office for this period.

240 In July 1993, when the date was set for the first ever non-racial, democratic elections, Mr Walter Felgate, then IFP National Council member, was quoted in the national media threatening that the IFP would "make it impossible for an election to take place, by embarking on a campaign of mass action, street action and disruption". On 14 February 1994, Buthelezi publicly called on all Inkatha members to "defend and fight back and resist the ANC and its communist surrogates".

241 Inkatha employed many strategies to undermine support for the ANC and/or the elections: IFP supporters occupied stadiums booked by the ANC for the holding of election rallies; busloads of IFP supporters were brought into ANC strongholds; voter education campaigns were disrupted, and whole households of ANC supporters were massacred.

242 It was at this time that at least three Inkatha paramilitary training camps were set up, including Inkatha's biggest ever paramilitary training project (at the Mlaba Camp) and a training programme in civil disobedience at another camp (Dinizulu). During this period, Inkatha sought assistance from right-wing organisations and disaffected members of the military and police. This assistance included the supply of arms and ammunition (see above), instructors for paramilitary training and the planning of joint Inkatha/right wing attacks on non-Inkatha supporters.

243 From the early 1980s right up to the April 1994 general election, Inkatha embarked on a number of paramilitary training projects in which supporters were trained by their leaders and/or by the KwaZulu government in weapons handling and paramilitary tactics. Many terms were used to describe these trained fighters,

including community guards, tribal police officers, *amabutho* and so on. Training occurred at, amongst other places, the Amatigulu, Emandleni-Matleng and Mlaba Camps, all owned by the KwaZulu government.

244 Former KZP Commissioner, General RP During was opposed to this "indiscriminate training of large numbers of rural unselected untested" men. He said in a statement that:

*sending them into rural areas without supervision ... would inevitably precipitate further violence and unrest ... the deployment of such details into already politicised communities would result in further bloodshed and chaos ... Another unacceptable aspect was that these inadequately trained men with lethal weapons and of necessity be deployed in both defensive and offensive operations – this being completely contrary to existing instruction.*

245 In September 1993, the IFP and KwaZulu Legislative Assembly together embarked on the self-protection unit (SPU) training project run at the Mlaba Camp in northern KwaZulu between September 1993 and 26 April 1994. The programme saw between 5 000 and 8 000 Inkatha supporters receiving paramilitary training under the command of IFP leader Mr Phillip Powell. Instruction was also given by Caprivi trainees, Vlakplaas operatives, members of right-wing organisations and hand-picked KZP members. The logistical side of the Mlaba Camp fell under Captain Leonard Langeni, who was also involved in the operations of the Esikhawini IFP hit squads (see above).

246 The Mlaba course included training in ambush and counter-ambush techniques, booby-traps, camouflage, house-penetration, hostage-taking, fire and manoeuvre techniques, patrol formations, combat formations and raids. A musketry course was also included. Weapons training was given in the handling and use of AK-47s, Uzi machine guns, shotguns, G-3 rifles, 9 mm pistols, and hand grenades. In addition, the trainees were taught how to manufacture and use petrol bombs. Shooting practice took place in the Mlaba river bed. A (then) Vlakplaas operative N J 'Snor' Vermeulen, who was for a period involved in the training at Mlaba, said that Powell had requested that he provide training in the use of heavy calibre weapons but that he had refused.

247 Mr Israel Hlongwane [AM4600/97] participated in the training at Mlaba Camp. He said that the trainees at his passing-out parade were addressed by KwaZulu Minister of Justice, Reverend Celani Mthethwa, who told them that "the purpose

of this training was to guard the chiefs, to eliminate the ANC and to stop the people from going to vote in the April 1994 elections".

248 Mr Thami Hebron Ngubane, an SPU member from Ixopo, said of his training:

*On the day of passing out, our instructors/commanders gave us instructions that we must endeavour by all means to eliminate the ANC members ... There were no other duties assigned to us except of killing the ANC members.*

249 In April 1994, a thousand SPU graduates were recalled to receive further training as special constables. It was intended that those who received this training would be incorporated into the KZP's Internal Stability Unit (ISU). However, the training was brought to an abrupt halt with a joint SAP/TEC raid on the Mlaba premises on 26 April 1994, only hours before the national election on 27 April 1994.

250 The raid was carried out after it became known in early 1994 that illegal weaponry was being used in the training of the SPUs. When an officially marked police helicopter attempted to land at the Mlaba camp to carry out the raid, trainees threw stones at it, making a landing impossible.

251 Later, when police gained access to the camp, they seized a large quantity of weapons and medical supplies, including twenty-six M26 hand grenades, five rifle grenades, seventy-six G3 rifles, forty-nine shotguns, eleven cases of 7.62mm rounds of ammunition, twelve cases of shotgun rounds and a large box of 9mm ammunition. A search of Phillip Powell's vehicle revealed a box of .222 rounds, a box of shotgun rounds in the boot, a Ruger semi-automatic firearm and a 9mm pistol. A home-made shotgun was also found, concealed under the front seat.

**THE COMMISSION FINDS THAT, ALTHOUGH THE SPU PROJECT WAS OFFICIALLY PLACED WITHIN THE AMBIT OF THE PEACE ACCORD AND THAT SELF-PROTECTION FORMED AN ELEMENT THEREOF, INHERENT IN THE PROJECT WAS ALSO AN INTENTION TO FURNISH INKATHA WITH THE MILITARY CAPACITY TO PREVENT BY FORCE THE HOLDING OF ELECTIONS WHICH DID NOT ACCOMMODATE INKATHA'S DESIRES FOR SELF-DETERMINATION. SUCH ARMED RESISTANCE WOULD ENTAIL THE RISK OF UNLAWFUL DEATH AND INJURY TO PERSONS AND, AS SUCH, CONSTITUTES A CONSPIRACY TO COMMIT MURDER.**

252 Between December 1993 and April 1994, a third training project was run at the Dinizulu camp near Ndumo in northern Natal. Here Inkatha supporters were trained in civil disobedience with the intention of making elections in KwaZulu rural areas impossible. The camp was disbanded after Chief Buthelezi announced that Inkatha would contest the elections. Former IFP National Council member

Walter Felgate, who played a central role in facilitating the training at Dinizulu, told the Commission that it was “inescapably a conclusion of the intention of that camp” that people would be killed.

253 An informal alliance between the right wing and the IFP emerged after the formation of COSAG in 1993. The alliance played itself out in weapons smuggling and paramilitary training, primarily on white farms and KwaZulu nature reserves. There were also a few cases where IFP and right-wing members took part in joint attacks.

254 Prominent South Coast IFP leader Mr James Zulu (now deceased) [AM5864/97] along with six right wingers (Christo Brand [AM6422/97], Morton Christie [AM6610/97], Harry Jardine [AM6178/97], Patrick Pedlar, Roy Lane and Andrew Howell [AM5961/97] all applied for amnesty in respect of the bombing of the Seychelles restaurant in Port Shepstone in February 1994 and the attack on the Flagstaff police station in the Transkei during March 1994. One police officer was killed and another injured in the latter attack. The applicants stated that they had conspired to bomb the Port Shepstone offices of the NP and ANC, but had abandoned these plans because of the commotion caused by the bombing of the Seychelles restaurant.

255 On 29 March 1994, eight local KwaMashu ANC leaders were kidnapped and five executed in the KwaMashu men's hostel, an IFP stronghold. The victims were part of a delegation of local ANC leaders that had arranged a peace meeting with their local IFP counterparts. As arranged, the eight men went to an Inkatha hostel to hold the peace meeting, only to be kidnapped and taken to another section of the hostel where five of them were executed. The other three were able to escape. The chairperson of the Inkatha branch in the KwaMashu A section hostel, Mr Alton Khanyile, was found guilty on five counts of murder, eight counts of kidnapping and two of attempted murder and sentenced to twenty years' imprisonment. The IFP paid for Khanyile's defence during the trial.

256 On April 1994, eight employees of a private pamphlet distribution company were tortured and murdered in Ndwedwe, north of Durban. The eight men had been distributing Independent Electoral Commission (IEC) pamphlets explaining voting procedures. Mr Qaphele Dladla, an *induna* of Ndwedwe, was convicted on eight counts of murder after being found guilty of instructing his '*amabutho*' to execute the men for promoting an election which Inkatha did not support. The IFP paid Dladla's defence fees.

## Ciskei and Transkei

257 In the Eastern Cape, the major conflicts were between the Transkei military government and Pretoria, and between the Ciskei and the ANC.

258 In July 1989, Transkei arrested six heavily armed white men who allegedly set off from South Africa, crossed the border with ease, and headed to Umtata to kill Holomisa. In December 1989, two more South Africans, including a serving member of the SAP, were arrested in Transkei on similar charges. Both these attempts seem to have been part of the ongoing attempts to unseat Holomisa, which culminated in the abortive Duli coup attempt of November 1990.

259 On 4 March 1990, officers in the Ciskei military overthrew Lennox Sebe and installed Brigadier Oupa Gqozo in his place, an action that apparently did not involve South African security forces. In the early months, Gqozo's government allowed organisations to operate freely. However, within six months the SADF had sent in an MI unit that operated out of Ciskei and deliberately turned Gqozo against the ANC alliance.

## ■ THE WHITE RIGHT WING

260 For the purposes of this section, the definition of the white right wing incorporates all white groups and individuals who organised themselves to acquire self-determination and against the democratic changes, but in particular those who were willing to commit violations in pursuit of their aims. These groups at times worked closely with other ethnically based nationalist groups, like Inkatha and the homelands leaders.

261 The comparatively short period of the constitutional transformation in South African society during the 1990s was marked by a radical mobilisation of white right-wing groupings. In a number of instances, unlawful acts perpetrated by members of right-wing organisations resulted in gross violations of human rights.

## Background

262 The first significant right-wing break-away from the NP in the mandate period occurred in 1969 when Prime Minister John Vorster expelled Minister Albert Hertzog from the Cabinet. He was followed across the floor by other conservatives who then formed the *Herstigte Nationale Party* (HNP). The HNP stood unequivocally

for a return to Verwoerdian politics for the Afrikaner *volk*, although the party did have not much of an impact on white politics in the country during the years of economic prosperity that followed.

- 263 In February 1982, Transvaal NP leader Dr Andries Treurnicht and twenty other members of Parliament walked out of an NP caucus meeting during a heated debate over the new constitutional dispensation which granted limited voting rights to coloured and Indian people. Treurnicht and his followers formed the Conservative Party (CP) a few weeks later. It was also during 1982 that the first right-wing weapons cache was found. The weapons had allegedly been provided by a policeman sympathetic to the *Afrikaner Weerstandsbeweging* (AWB), which had been formed in 1973.
- 264 In late 1989 three extra-parliamentary right-wing leaders, Mr Robert Van Tonder, Mr Piet Rudolph and Mr Eugene Terre'Blanche met with State President FW de Klerk and Mr Gerrit Viljoen in Pretoria to state their demand for a *volkstaat* and for self-determination. The unbanning of the liberation movements on 2 February 1990 sent shock waves through conservative and right-wing circles. On 26 May 1990, CP leaders announced the beginning of the "third war of liberation". Mr Ferdie Hartzenberg was quoted at the time as saying that the Afrikaner would follow the example of the ANC and use the strategy of liberation struggle to attain freedom.
- 265 Between this date and the formation of the *Afrikaner Volksfront* (AVF) in 1993, the mood swung further towards violence. However, the right wing remained fragmented and most human rights violations during this time were perpetrated by extremist groups and individuals, some linked to the neo-Nazi churches.

### **Right-wing groupings and structures**

- 266 During the 1980s, right-wing groups became targets of Security Branch surveillance and detention. At the height of the state of emergency, a right-wing group, the *Blanke Bevrydingsbeweging* (BBB), was restricted. A statement taken from the National Socialist Partisans (NSP) – a four-person cell – observes that the restriction of the BBB demonstrated that the only effective way open to the right wing was that of underground military action. The unbanning of the liberation movements and the process of negotiations led to a further significant growth of right-wing groups. By the time of the first democratic election, it is estimated that just short of 100 right-wing groups were operational in the country.

267 Right-wing groups in the early 1990s could be roughly classified as the ‘mid-right’ (moderates), the loosely structured “*Boerestaat* Alliance” and the ‘ultra-far right’. Most were later unified under the umbrella of the AVF. Many of the ultra-right members believed that the AVF would lead them into a war, while the moderates eventually opted for negotiations and participation in the 1994 elections.

### ***The mid-right***

268 Under the mid-right, the Conservative Party (CP) as parliamentary opposition took centre stage. The CP had its own ‘*Broederbond*’, called *Toekomsgesprek*, which in turn formed links with various conservative civic organisations, religious groups and some public institutions. *Toekomsgesprek* is said to have been instrumental in the formation of the *Boere Krisis Aksie* during the farmers’ siege of Pretoria in 1991. It was assisted by General Constand Viljoen and Colonel Jan Breytenbach. According to amnesty applicant Mr Daniel Benjamin Snyders [AM0074/96], *Toekomsgesprek* also developed close ties with the AWB’s *Wenkommandos* after 1991.

269 Some members of the CP, including leader Dr Andries Treurnicht and Mr Clive Derby-Lewis, were in contact with international right-wing organisations like the ‘Monday Club’ in the British parliament and the World Anti-Communist League (WACL), as well as the Western Goals Institute.

270 The *Boerestaat* Alliance emerged when a delegation of party leaders petitioned FW De Klerk in Pretoria during 1989 for a *volkstaat* in the Transvaal and Orange Free State. Significant parties in this alliance were the AWB, Mr Robert van Tonder’s *Boerestaat* Party (BSP), the HNP, the *Oranje Werkersvereniging* and the Transvaal *Seperatiste* (TS). Also included under this grouping was the militant *Orde Boerevolk* formed in the early 1990s by Piet Rudolph, a former security policeman and the deputy leader of the BSP.

271 In the early 1990s, local self-protection committees, modelled on the neighbourhood watch system, were created in many right-wing towns by the AWB, including Welkom (*Blanke Veiligheid*), Brits (*Brandwag*), Klerksdorp (*Aksie Selfbeskikking*) and Virginia (*Flamingos*). Some groups engaged in vigilante actions. An AWB applicant (HJ Slippers [AM1002/96]) described how in November 1990 his commander ordered them to establish a ‘white-by-night’ regulation in Belfast in November 1990 which meant that blacks found in town after 21h00 were to be forcibly removed. He and three other members found Mr George Nkomane walking in town after the ‘curfew’ during February 1991, abducted and killed him.

272 Similarly, *Blanke Veiligheid* was engaged in a drawn-out ‘vigilante’ battle with the adjacent black town, Thabong, as early as 1990, fuelled by frequent speeches by AWB leaders in Welkom and a series of liberation movement rallies in Thabong.

273 On more than one occasion these organisations were at the forefront of confrontations with black residents during consumer boycotts. During such incidents white vigilantes normally encountered little or no intervention from the law enforcement agencies.

### ***The ultra-right***

274 On the ultra-right front, a succession of extremist and militant groups, as well as some non-militant groups, emerged. Some constituted ‘armed wings’ of the more recognised conservative groups, like the AWB’s *Ystergarde* (Iron Guard) and *Wenkommandos* (paramilitary wing), the *Boere Weerstandsbeweging* (BWB) and its own armed wing, the *Boere Republikeinse Leër* (BRL), the *Orde Boerevolk* (OB), the *Wit Wolwe* (WW), the *Wit Bevrydingsleer*, *Magsaksie Afrikaner Nasionalisme*, the Pretoria *Boerekommando*, *Boere Vryheidsbeweging* (BVB) and the *Wit Wolwe*.

### ***Formation of the Afrikaner Volksfront***

275 Racial tension mounted in a number of regions following the killing of Communist Party leader Mr Chris Hani. Leading figures in the extreme right wing warned of retaliation in the event of reprisals following Hani’s death. Heavily armed, flag-carrying AWB members and its *Ystergarde* drove around townships threatening residents that they would suffer the same fate as Chris Hani. The *Boere Weerstandsbeweging* warned that it would embark on a cleansing process, eliminating all black communists and agitators. The AWB *Wenkommando* promised merciless attacks on anyone who threatened the lives or property of whites. In a poster war, Mr Barend Strydom of the *Wit Wolwe* declared that his organisation would take up the battle with the ANC in the event of attacks on white citizens.

276 It was in the wake of the death of CP leader Dr Andries Treurnicht that a group of retired SADF generals known as the ‘Committee of Generals’ held a series of meetings around the country resulting in the formation of the *Eenheidskomitee 25* (EK25). This was later expanded to form the *Volkseenheidskomitee* (Vekom) with General Viljoen as leader, and a number of other leading ex-security force members including General ‘Tienie’ Groenewald (former chief of MI), General

Koos Bischoff (former chief of operations of the army), General Lothar Neethling (a former deputy commissioner of police), and General Cobus Visser (a former head of CID) in leading roles. Vekom immediately began to establish regional committees in the rural areas of the Transvaal and the Orange Free State.

277 Less than two weeks after the creation of Vekom, the *Afrikaner Volksfront* was conceived at a meeting in Pretoria. A broad spectrum of right-wing groups were present, including the CP, HNP, *Afrikaner Volksunie*, *Afrikaner Vryheidstigting* (Avstig), the WAB, the *Boere Vryheidsbeweging*, Pretoria *Boerekommando* Group, and Vekom. Also present were the Mine Workers Union, the Iron and Steel Workers Union, the Transvaal and Free State Agricultural Union, the Church of the Creator, the *Oranjewerkers-Vereniging* and some business and church groupings.

278 General Groenewald convinced the CP's Dries Bruwer and the AWB to join the AVF. More militant groups like the BWB and the BRL also later became *de facto* members of the AVF. Simultaneously, the former *Boere Krisis Aksie* was reactivated through the *Boere Vryheidsbeweging* (BVB) for the establishment of a '*volksleer*' (people's army), consisting mostly of farmers. Its numbers were thought to be around 10 000, of whom 3 000 could be mobilised at short notice. The *volksleer* allegedly later became the military arm of the AVF. It was for some time under the command of Colonel Jan Breytenbach, formerly from Special Forces and commander of 32 Battalion.

279 The various groupings developed strategies of action involving the mobilisation of resistance and support from various quarters, including homelands parties and some international organisations. Some grouping planned armed actions against the state. In one such protest action, AWB members crashed through the doors of the World Trade Centre at Kempton Park, Johannesburg, in a Casspir (armoured personnel carrier). This was a warning sign that the AWB and some of its militant allies were not fully under the control of the generals. In the Freedom Front submission, General Viljoen acknowledged that they realised that the mood among some supporting groups was volatile and that it could "very well become uncontrollable".

280 In March 1994, Eugene Terre'Blanche disregarded an order from Viljoen not to join other AVF members sent to help President Lucas Mangope of Bophuthatswana with the turmoil caused by civil servant strikes (see below). Constand Viljoen [AM5667/97] then resigned as leader of the AVF, distanced himself from the

AWB and agreed to take part in the election under the banner of the Freedom Front. The final phase of resistance/revolt was averted by the signing of the last minute pre-election ‘Accord on Afrikaner Self-Determination’ between the AVF, ANC and the NP government on 23 April 1994. The accord made provision for the inclusion in the interim Constitution of the principle of self-determination and the establishment of the *Volkstaat*. From amnesty applications it appears that AWB members had in mind a “conventional war” to “overthrow” the former (NP) government and to convert it to a ‘*Boererepubliek*’. The aim was to generate secession in certain regions and then to take over the government with “military violence”. This was to happen in three phases, first, a propaganda campaign to create support; second, the stock-piling of food and weapons and the subversion of government authority and third, the use of sabotage and other violent actions to propel the government into as much social and political chaos as possible.

- 281 Amnesty applicants say that the AWB ‘*Generale Staf*’ gave orders to all commanders during November 1993 to plan in their regions for the take-over of all police stations. This was never carried through.
- 282 Shortly before the general election, the AWB drew up a strategy to acquire the Transvaal and the Orange Free State as a base against a future “Communist government”. It provided for the occupation of these areas by thousands of its followers “to ensure sufficient manpower was mustered to ward off any persecution or action against supporters of the right wing”. Twenty-three amnesty applicants asserted that before the election many right-wing town councils in the western Transvaal made an agreement with the AWB to protect key (logistical) points should the need arise. The AWB would then transform themselves into *volkstaat* police for the protection of such towns. The AWB was also granted the freedom of a number of western Transvaal towns during this time.
- 283 Closely associated with the AWB, the more radical BWB included an “armed wing”, called the *Boere Republikeinse Leër* (BRL). Amnesty applicants from the BWB claimed that they were given instructions at meetings to prepare for war, which included the procurement of weapons and ammunition.
- 284 After the formation of the AVF, the commandos were incorporated into the umbrella movement’s paramilitary structures. At this point, claims put the number of ‘soldiers’ that could be mustered at between 50 000 and 500 000.

285 Many AWB amnesty applicants refer to a meeting in Ventersdorp in February 1994 where they were informed that a coalition would be formed with the AVF and CP to declare secession in order to obtain the land that was to be ruled by the *Afrikaner Boerevolk*. Terre'Blanche allegedly pronounced at this meeting that he was the mouthpiece of the *Afrikaner Boerevolk* and ordered the AWB generals to return to their commandos and prepare for war.

## Links with other groups

286 There are a number of allegations relating to the involvement of MI structures in the formation of Vekom and later the AVF. On the one hand, it has been suggested that the AVF was a strategy to defuse the militant ultra-right and rogue security force members and to bring them into the fold of the negotiation process. An alternative version is that the initiative was aimed at mobilising the right wing to create an impression that a military-style coup was on the agenda, thus either strengthening the NP's bargaining position in the negotiations or as a prelude to a military-style coup.

287 Although members of the former SADF and SAP had, since 1984, been prohibited by law from being members of the AWB and other right-wing organisations, many policemen were sympathetic to the right wing. The AWB boasted that had the support of between 40 and 60 per cent of the army and police.

288 The Commission received amnesty applications from security force members who supported the right wing and even actively assisted them with training and the purveying of information and weapons. Examples include:

- a During a meeting in Pretoria on 19 July 1993, Colonel Piet Botha, former policeman and then secretary of the AVF's executive council, submitted a twenty-page memorandum for a militant plan of armed resistance to take over the Union Buildings, SAP and SADF headquarters and the SABC, among others.
- b In June 1993 a Lieutenant Johan Kotze (SAP Phillipi) said the SAP was busy organising right-wing policemen to neutralise the SAP during a possible coup, by placing as many policemen with right-wing sentiments at all SAP stations and that former special forces and Koevoet members with right-wing sentiments were being encouraged to join the SAP's reservist force.
- c Another report from NIS says SAP members appeared to be part of right-wing armed mobilisation. The agent alleged that several SAP members were

on the regional management of the BKA, in towns like Heilbron, Vrededorf and Wesselsbron.

d A BWB 'general' (Horst Klenz [AM0316/96]) described how the security police in some towns (like Cullinan) provided weapons directly to the group's deputy leader (one Von Beenz), for use by the BWB's approximately 100 active members.

289 At the same time, however, the security forces infiltrated the right wing. According to intelligence documents shown to the Commission, the SAP ran a Stratcom Project in the early 1990s called *Operation Cosmopolitan* which aimed to "utilise strategic intelligence in order to persuade the right wing to take part in negotiations and a peaceful settlement and to positively influence members of the SAP to accept and support the negotiation process". An application from Mr Klenz confirms this strategy:

*The entire BWB was infiltrated by the Security Police, if they were not in charge anyway ... The most fervent right-wingers were thus kept busy with war exercises, which satisfied their need for action, without achieving anything.*

290 The line between infiltration and participation is frequently difficult to determine. A security policeman applied for amnesty in relation to a number of acts carried out allegedly by the *Wit Wolwe* in mid-1990 – including death threats made to a Pretoria NP councillor after the city council decided to open facilities to all, and the shooting of an arrow at the house of a Democratic Party candidate in Alberton, with the words "*Wit Wolwe, wit woede, wit weerstand*" (White wolves, white rage, white resistance) attached. The applicant, who does not want to be identified as he claims still to be working undercover, says he has been involved in gathering information on the right wing since 1985, mainly with a view to identifying violent campaigns in the wake of the 1983 constitutional changes. During the late 1980s, his main task shifted to identifying those policemen who were actively involved in far-right organisations, as they might have had access to weaponry and military intelligence. He identified and named several such policemen.

291 Similarly, there are indications that a leading right-wing operative who applied for amnesty for gross violations of human rights was in fact a source of one of the intelligence agencies. Claims in amnesty applications that SADF arsenals were shown to the right wing and that co-operation was promised could not be substantiated. Individual defence force members may, however, have helped to create caches and obtain weapons through established networks.

292 Two amnesty applicants who committed fraud to obtain weapons for both the AVF and AWB said that the groups obtained AK-47s from Mozambique and UNITA and believe members of former SADF Special forces and *Koevoet* were involved in this. Another applicant (DB Snyders [AM0074/96]) indicated that the AWB had contact with weapon supplies from Maputo. While the Commission was unable to establish the veracity of these allegations, it must be noted that many of the right-wing groups formed in the early 1990s had former or serving SADF, Special Forces, CCB and MI members as leaders.

### The right wing and the Inkatha Freedom Party (IFP)

293 The AVF and the IFP became formally linked by the formation of COSAG in 1993, and its successor, the Freedom Alliance. Officially, the Freedom Alliance (FA) was a political pressure group, consisting of the AVF, the IFP, the Ciskeian and Bophuthatswana homeland governments, and the Conservative Party. All its members had pulled out of the multi-party negotiations at the World Trade Centre at one stage or another. The FA was united around the rejection of a unitary state and advocated a strong regional agenda.

294 Even before COSAG and the FA came into existence, AWB groups in KwaZulu (the North Coast in particular) and to a lesser extent the West Rand, were working closely with the IFP, providing training on their farms and often sharing membership.

295 One IFP amnesty applicant from Durban, Mr Alan Nolte [AM2501/96] claims to have been 'on loan' to the AWB when he set out with four other AWB members, on orders from the AWB, to poison the water supply of Umlazi with cyanide during 1993/4. The Commission found no evidence that this was executed. Nolte was later convicted of illegal possession of arms and explosives.

296 The Commission received several applications for amnesty from right-wing operatives involved in the procurement of arms which indicates co-operation and/or involvement of the IFP. Amnesty was granted to Mr Gerrit Phillipus Anderson [AM8077/97], an AWB member whose cell in Natal co-operated with the IFP in the procurement and hiding of weapons.

297 AVF/AWB member Mr JN Visser [AM 5199/97] described how weapons were bought from an IFP member and distributed to the AVF. Another AVF member, Mr JW Van Rensburg [AM5666/97] claimed he provided advice and military training to the IFP at Empangeni during 1993. An AWB amnesty applicant admitted that

he was working as a security police informant in late 1993 and that during this time he was asked by the AWB to approach the IFP with a view to joint weapons' heists on police stations in the East Rand (T Chadwick [AM5193/97]). The weapons' heist at the Eastern Cape Flagstaff police station in March 1994 was thwarted when the police were warned of the impending attack by an informer and AWB commander Patrick Pedlar. The AWB applicants were granted amnesty in respect of the murder of policeman Mr Barnabas Jaggers, the attempted murder of Mr Wele Edmund Nyanguna and Mr Mzingizi Abednego Mkhondweni and theft of a police vehicle. The Amnesty Committee found that they were given the order to obtain arms to be used by the IFP's self protection units in their war against the ANC.

298 Nevertheless, in a section 29 investigative enquiry at the Commission's Durban office, Mr Walter Felgate, former IFP leader, said that the IFP declined most right-wing offers for joint operations to procure weapons.

### **Links with international right-wing groups**

299 The first link between ultra-right terrorism and foreign agencies came to light in 1982 when Mr Fabio Miriello, Mr Massimo Bollo and Mr Eugenio Zoppis, all white foreign expatriates known as the 'White Commando', were convicted of the 1979 bombing of the offices of prominent academic Dr Jan Lombard. Originally Mr Koos Vermeulen and Ms Monica Hugget (a foreign right-winger) were arrested with them, but Huggett turned state witness and Vermeulen was released after a few days. Huggett's name was subsequently linked to the shoot-out in March 1994 between the SAP and three German right-wingers in the Donkerhoek area. One German right-winger, Mr Stephan Rays was arrested, Mr Thomas Kunz was shot dead, and a third, Mr Horst Klenz [AM0316/96] later arrested. A fourth, Mr Alexander Niedneleun, was later charged in the Cullinan magistrate's court for illegal possession of a fire-arm.

300 Mr Robert Mahler [AM6397/97], an American citizen, claims in his application to have been recruited by the former SAP to act as firearms instructor. Mahler was caught in the United States, after he illegally imported a large cache of weapons to South Africa, using fraudulent names and passports. He claims allegiance to the CP, and said he had contact with other groups like the AVF and the AWB. He also said he was the USA fund-raising representative of the AWB.

301 The HNP, Avstig and the AWB were active in Namibia, particularly around the time of independence in 1989. South African right-wingers helped extensively

with the provision of weapons across the border through AWB/BWB smuggling networks, mostly based in Pofadder. It is alleged that the CCB and possibly other members of the former security forces were also involved in these networks.

302 Intelligence sources claimed that several right-wingers, including AWB and BWB members, were involved in gun-running from RENAMO to South Africa. An AWB member allegedly tried to get funds for the movement in Europe, under the cover of fund-raising for the 'development' of Mozambique. A group of RENAMO soldiers was allegedly recruited by the right wing in mid-1993 to serve on the AVF's *Volksleer*, along with several former CCB, *Koekoek* and 32 Battalion members. Some amnesty applicants claimed that the right wing obtained arms from RENAMO and UNITA with the help of Special Forces members. This was corroborated by NIS source reports.

### **Violations committed by the right wing**

303 In the pre-1990 period, the right wing was mainly associated with isolated incidents of racial and other violence. The earliest example of a right-wing violence in any amnesty application is that attributed to Mr Eugene Terre'Blanche [AM7994/97] for the tarring and feathering of Professor Floors van Jaarsveld in 1979 after his 'liberal' speech in Potchefstroom.

304 Between 1982 and 1985 various AWB members, including Terre'Blanche, were charged with illegal possession of weapons and explosives.

305 In 1988, *Wit Wolwe* member Barend Strydom massacred seven people in Pretoria in Church Square. Strydom initially applied for amnesty for this incident, but subsequently retracted his application.

306 In December 1988, Ms Linah Masesi Mazibuko [JB04588/01ERKWA] was assaulted and left to die by a named CP member near a shopping complex in Brakpan. In the same month, Mr Matthews Mokoena was set alight with petrol by an AWB member in Petrus Steyn, Orange Free State. Mokoena died later in hospital.

307 In August 1989 a black taxi driver, Mr Potoka Franzar Makgalemele, was fatally stabbed and shot by two right-wingers. A member of both the AWB and the radical *Orde van die Dood* applied for amnesty for the killing (CJ Lottering [AM1004/96]) saying he was under orders to kill various political figures, and committed this murder 'as initiation' to find out whether he was capable of it. He was denied amnesty for the act.

## **Human Rights Violations since 2 February 1990**

308 One of the earlier known cases of orders given for violence, was that of Piet 'Skiet' Rudolph of the *Orde Boerevolk* who advised – on an internationally distributed video recording in 1990 – that people should "shoot now" at those who posed a threat to Afrikaner and *Boere* self-determination.

309 From 1990 onwards, human rights violations perpetrated by supporters of right-wing organisations included targeted killings, indiscriminate attacks on individuals, the bombing of strategic targets/sabotage and violations associated with the Bophuthatswana invasion

310 Two AWB members from Potgietersrus, Mr Jan Harm Christiaan Roos [AM0801/96] and Mr AJ Vermaak [AMAM0818/96], killed a civic member Mr Max Serame in 1990, because of his alleged role in a boycott action in the town. The applicants claimed that commanders did not ask them to kill Serame and that they were in a position to make their own decisions. Earlier that year, Mr JW Rautenbach [AM0412/96], murdered Mr Iponse Beyi Dlamini in Lamontville. In October 1990, Mr Jeff Wabena was assassinated by a masked gunman during an ANC branch meeting in Border. Wabena was the national co-ordinator of the South African Domestic Workers Union (SADWU). He had previously survived two other attempts to kill him.

311 Chris Hani was gunned down on Easter weekend 1993 at his home in Dawn Park. Polish immigrant Januzs Walus [AM0270/96] and CP MP Mr Clive Derby-Lewis [AM0271/96] applied for amnesty for the killing. Hani's death led to fears of widespread reprisals and counter-reprisals that could derail the negotiations and an international team was set up to probe his assassination. Both Walus and Derby-Lewis were convicted and sentenced to life imprisonment. Allegations still abound that a wider conspiracy was involved in the assassination. Some of those alleged to have been involved (names withheld at this stage) have also been implicated in intelligence documents as part of the so-called 'Inner Circle' or '*Binnekring*' of 67 members of special forces (mainly CCB) and MI allegedly set up in July 1990. According to the former Transkei Intelligence Service they were tasked to carry out special operations by top generals in former MI structures.

312 Both Derby-Lewis and Walus had strong ties with Mr Koos Vermeulen, leader and founder of both the World Preservatist Movement (WPB) and the World Apartheid Movement (WAB). Both were and are suspected to have been South

African Police fronts. Others associated with WAB include right-wingers Mr Adrian Maritz and Mr Henry Martin, both former intelligence sources. Maritz and Martin often worked closely with CCB operative Leonard Veenendaal when he carried out violations between 1989 and 1991. Walus himself operated as a NIS source. The weapon used in the killing was stolen from the Pretoria SAAF air base by Piet 'Skiet' Rudolph, Veenendaal and Francois van Rensburg in April 1991.

**THE COMMISSION WAS UNABLE TO FIND EVIDENCE THAT THE TWO MURDERERS CONVICTED OF THE KILLING OF CHRIS HANI TOOK ORDERS FROM INTERNATIONAL GROUPS, SECURITY FORCES OR FROM HIGHER UP IN THE RIGHT-WING ECHELONS.**

- 313 In February 1990, AWB member AJ Roets [AM4281/96] and others embarked on a random raid on black people and whipped and kicked an unknown victim to death. In the same month, a photographer was thrown out of an AWB meeting in Brandfort and sustained serious head injuries when he was attacked with *sjamboks* (whips) and pick-axe handles. The Orange Free State regional leader of the AWB and three others were charged with assault. A journalist from India was assaulted and thrown out of an AWB meeting in Pretoria.
- 314 In May 1990 the Soweto Civic Association warned residents of a group of whites pretending to be police. The group travelled around the township in a minibus without number plates. The civic issued this warning after two Soweto youths were shot dead by a white gang on separate occasions.
- 315 During a consumer boycott in Delmas, AWB supporters entered the township to cause trouble. On one occasion, an AWB supporter wounded a youth and on another a resident was shot dead. Three members of the youth executive disappeared.
- 316 During September 1990, Mr Johannes Masango was killed by two people in Johannesburg when they found him on their property (Van Deventer [AM2045/96]) In the same month Mr Abia Molise and two friends were thrown into a police van and tortured by alleged AWB members of the police in Bloemfontein.
- 317 In February 1991, Mr George Mkomane was killed by five AWB members in Belfast. Mr Hendrik Slippers [AM1002/96] said they were driving around trying to enforce the AWB's 'white by night' policy in the town. The victim was punched and kicked all over the body, then left to die.

318 In 1992, an unknown black victim was stabbed to death in May by an AWB member in Johannesburg. Mr V Vosloo [AM1003/96] said he decided to do this to show his dissatisfaction with the new order. In the same month, two AWB members (brothers Janse van Rensburg) were on their way to Witbank after an AWB meeting when they saw an unidentified black man walking along and they decided to kill him.

319 During May 1991, Mr Simon Rabesi Phiri [JB01567/03NW] and his mother Ms Maart Matlakala Phiri, Mr Judas Sithole, Ms Pauline Sithole and Ms Nkete Wlemina Mangwela were beaten as part of the AWB's 'clean-up' of their squatter camp in Tshing, near Ventersdorp. Eugene Terre'Blanche and Piet 'Skiet' Rudolph were part of the action.

320 During 1991, three people were killed in Louis Trichardt in the course of a weapons heist by a group of right-wing students. The victims were Mr Makwarela Dobani, Mr Wilson Dobani and Ms Maria Claudine Roux. The students were part of a right-wing cell called the National Socialist Partisans whose main aim was to prevent the ANC/SACP from taking over and to establish a *volkstaat* "through violent means". They set out obtain weapons, funds and to establish bases for the "purposes of training internally as well as in neighbouring countries". In November 1991, two members of the four person cell, Mr Johannes Jurgens Grobbelaar and Mr Jurgen White, died in uncertain circumstances at Noenieput in the far Northern Cape. The SAP claimed they had committed suicide after a "wild shoot-out". A number of reports stated that the SAP were investigating a possible link to two right-wingers with connections with the security forces, notably Maritz and Martin.

321 Grobbelaar's mother made a statement [JB0121/03WR] to the Commission alleging that the Security Branch might have been involved in the shooting that led to his death and pointing to irregularities in the police investigation. She alleged that she and her husband had been subject to intimidation and threats by the Security Branch both before and after his death. The Human Rights Violations Committee concluded that the two were shot and killed during a battle with the police, but that there was not sufficient evidence to disprove the inquest finding of suicide.

322 In December 1991, two other members of the alleged cell, Mr Cornelius van Wyk [AM1050/96] and Mr Jean du Plessis [AM0151/96] were refused bail after their arrest in connection with a break-in at an SADF base in Potchefstroom and

at Walmansthal "after police had investigated the circumstances surrounding the deaths of Grobbelaar and White". Du Plessis and Van Wyk are still in prison and were refused amnesty as the Amnesty Committee found that their cell was not a "publicly known political organisation or liberation movement" as required by the Act.

- 323 During June 1992, Mr Fox Buys [KZN/BEN/08/FS] was brutally stoned to death by an AWB farmer near Bloemfontein for allegedly assaulting an employee of the farmer.
- 324 In 1992, two friends, Mr William Rankadi and Mr Petros Manyedi, [JB05677/03VT] were allegedly fired at by AWB members as they were walking down a street in Meyerton.
- 325 Mr Andries Plaatjies, [EC2024/97TS] an ANC member, was kicked and assaulted with pick-axe handles by several white vigilantes in Patensie in October during a boycott of white businesses. The police did not intervene. Plaatjies sustained serious injuries.
- 326 Mr Patrick Kwankwa [EC0859/96KWT] was walking home from Vanderbijlpark in June when AWB members shot him through the ankle without provocation. His foot was amputated as a result of this shooting.
- 327 In November 1992, Mr Moloi Mofokeng [KZN/PAM/004/FS] was shot in Heilbron by an AWB member during a strike by workers. Mofokeng had not taken part in the strike. He died in hospital.
- 328 In March 1993, a right-winger in Reitz allegedly abducted three men, including Mr Molefi Theletsane [KZN/PAM/014/FS], who was injured when he jumped off the bakkie to escape. A PAC member was shot by an unknown member of the *Wit Wolwe* while travelling near Welkom.
- 329 An AWB member shot and killed Mr Norman Linda [JB0141/03VT] in Boipatong during a march to the police station in April. Mr Samuel Moloi [KZN/SELF/066/FS] was shot and injured by an AWB member for no apparent reason in Kestell township, Bloemfontein later that same month.
- 330 On 17 April 1993, two AWB members decided to kill a black woman at Flamingo Pan, Welkom after the woman got out of a car with a white man. Their motive was that "blacks and whites should not be together". She was shot dead.

331 In May Mr Mika Bennet Moeti [JB05533/03NW] was severely injured when the car he and a friend was driving in was driven off the road near Pampierstad by AWB members and overturned.

332 Mr Class Mabuti Mofadi [KZN/BEN/027/FS] was shot and severely injured by an AWB member in June at Cansutt, Tikitana (Hoopstad). He was wearing an ANC shirt. In the same month Mr Samuel Chobane Papala [KZN/BEN/001/FS] was abducted by three AWB members while walking down the street in the same town. They locked him up and assaulted him.

333 On 1 July 1993 five AWB members (including Mr AML Fourie [AM0361/96] and Mr Gert Jonker [AM0484/96] abducted two black men in Carltonville suspected of theft and decided to kill them. One of them, a 'Commandant', applied for amnesty for the death of Mr William Lesenjego and stated his political objective as being "to promote the ideology of the AWB and to decrease the number of blacks".

334 An AWB commander, Mr Gerald John Van Dyk [AM0113/96] from Carltonville, applied for the murder on a Rustenburg policeman during July 1993 and cites general orders from the AWB.

335 In September, Mr Tshamaano Robert Mahebeledzha [JB00571/02NPPTB] was severely assaulted in Potgietersrus by two AWB members (names withheld) for not being able to tell them the whereabouts of two black men they were pursuing. His leg was amputated as a result of the assault.

336 Mr Richard Mfanini Mthethwa [KZN/SANG/035/VH] was severely beaten, kicked and assaulted by four AWB members in Vryheid during September. He became blind and lost his job.

337 In October, Ms Tshibili Siobo [JB03332/02NPLTM] was called a 'kaffir' and dragged by a tractor at her place of employment near Louis Trichardt when she was pregnant. Her chest was torn up and other injuries were sustained. She is today a cripple.

338 Mr Nicklaas Engelbrecht and Mr Frikkie Witbooi was shot dead by amnesty applicant Mr GJ van der Sandt [AM1698/96] in November 1993 near Pofadder.

339 During December 1993 Mr Edgar van Wyk [JB5924/03WR] was severely injured and tortured by AWB members who broke into his house in Toekomsrus looking

for his son who was supposed to have Obtained AK-47s for them. His wife was also beaten.

- 340 In the same week Mr Teboho Makhuzza [JB05972/01GTSOW] and three friends, Mr Theophilus More, Mr Gabriel Shabangu and Mr Simon Nkomboni were amongst those killed by the AWB gang who erected a roadblock. Eight amnesty applicants said they shot and killed four black people, wounding six others, after being told by their Western Transvaal commander that the "revolution" was to start that day. The applicants were Chief Commander for Randfontein area, Mr Phillipus Cornelius Kloppers [AM4627/97], his second-in-command, Mr Deon Martin [AM4621/97] and Mr Andre Francois Visser [AM4571/97], Mr Marius Etienne Visser [AM7003/97], Mr Petrus Matthews [AM4624/97], Mr Gerhardus Johannes Diedericks [AM6662/97], Mr Frederick Jacobus Badenhorst [AM7004/97] and Mr Carel Hendrik Meiring [AM7002/97] and Mr Marthinus Lodewikus van der Schyff [AM5435/97].
- 341 The applicants claimed they were ordered by their commander, AWB General Japie Oelofse, that it was time to see "bodies" while exercising "hard options". After searching several cars for weapons they wanted to confiscate for their war, they assaulted and later shot the occupants of two cars. Oelofse allegedly requested a symbol of their activities and an ear of one of the victims was cut off to show him. During the amnesty hearings, Oelofse denied this. The Amnesty Committee had not yet made a decision at the time of reporting.
- 342 Weeks before the 1994 election, two people were shot at by AWB members in Bethlehem. One of them, Mr Daemane David Maphisa, [KZN/SMB/128/FS] died.
- 343 During March 1994, Mr Mcoseleli Benya [EC2116/97ELN] was stabbed to death with pangas by four named AWB members on the N2 in East London. The Commission heard that dangerous weapons were used in an AWB mission to remove "blacks" from the streets before the election.
- 344 Mr Itumeleng Ernest Kejane was shot by an AWB member at Hertzogville while participating in a march. He was severely injured.
- 345 In March 1994, three right-wingers, claiming to be AWB members, including Mr Tyrone Chadwick [AM5193/97], shot and killed two unknown victims in Heidelberg in the former Transvaal, then dug a trench and threw the bodies into it.

346 On 23 April 1994, four AWB members shot and killed an unknown victim in Secunda. Those who applied for amnesty were Mr WJ Van Zyl [AM5611/97], Mr OA De Meillon [AM4570/97], Mr Edmund William Holder [AM5610/97] and Mr Willem Johannes Van Schalkwyk.

347 On election day, 27 April 1994, Mr Viyani Papiyana was killed when two right-wingers took to the streets in the West Rand and shot at a minibus taxi in an effort to disrupt the elections. Mr Godfrey Papiyana was wounded. The applicants, Mr James Wheeler [AM2084/96] and Mr Cornelius Rudolph Pyper [AM5179/97], were serving fifteen-year jail sentences for the attack when they were granted amnesty. The Amnesty Committee was satisfied that the applicants had believed themselves to be under orders from the AWB.

348 Two AWB members and a BWB member from Secunda were ordered to obtain automatic weapons for the 'revolution'. The Devon Radar Complex in Secunda was attacked and robbed on 24 April 1994. A police guard was shot and killed in the process. Mr WJ Van Zyl [AM5611/97] and Mr EW Holder [AM5610/97] claimed they were given orders by their area commander, Mr Ockert van Schalkwyk. Mr Ockert de Meillon of BWB [AM4570/97] allegedly pulled the trigger.

### ***Sabotage and Bombing of Strategic Targets***

349 During March 1990, a mosque in Nelspruit was bombed by right-wingers. Two months later Melrose House, the site of the signing of the Anglo-Boer War Treaty, was extensively damaged by a bomb. The *Orde Boerevolk* claimed responsibility for this as well as for bomb attacks on the office of the ANC and that of a trade union in Rustenburg later the same month.

350 In June, a bomb blast caused damage to a trade union office in Welkom. The neighbourhood watch-style vigilante group *Blanke Veiligheid* claimed responsibility. During the next two months right-wingers also placed bombs at some NP offices and the home and business of a DP councillor Mr Clive Gilbert, at a Jewish Centre in Johannesburg, at the home of a NP town councillor, at the home of Mr Serge Mokonyane of the Kagiso Residents Organisation in Krugersdorp, at the offices of *Vrye Weekblad* in Johannesburg and at the Carltonville offices of NUM. The former leader of the AWB in Johannesburg Mr Leonard Veenendaal [AM3675/96], Mr Daryl Stopforth [AM3549/96], salesperson Mr Craig Barker and Mr Arthur Archer were charged in connection with *inter alia* the bombs at the synagogue, Burger's house and *Vrye Weekblad*. This was the first time that right-wingers

had been charged with terrorism. None of the accused were granted bail, and Veenendaal, Barker and Archer went on hunger strike.

- 351 In July, twenty-seven people were injured when a bomb exploded at a taxi rank in Johannesburg during peak hour. The *Wit Bevrydingsleér* claimed responsibility. In the same month a waiter was killed when a bomb exploded in the Richmond Hotel in Florida on the West Rand, and one man was killed and twenty-one injured when a white man hurled a grenade into the Roodepoort Hotel. The deceased were Mr Right Ngoma and Mr Kelvin Netsware.
- 352 The NP office in Bloemfontein was bombed by unknown persons. Commenting on the bomb attack in Bloemfontein, a member of the *Boere Weerstandsbeweging* warned: "If [the government is] going to continue selling us out to the communists they can expect more blasts like [the one at the National Party office] ... We are army guys and used to fighting communists and we will not stop before we have our Boer republics back".
- 353 In August 1990, a bomb exploded on a Saturday morning in a Pretoria street, near a taxi rank and COSATU's offices. About thirteen people were injured, some seriously. A bomb also exploded outside a residential hotel used by ANC and SACP supporters in Johannesburg. An M26 hand grenade was thrown into the third class section of Roodepoort station in Johannesburg. Mr Gilbert Aiking was killed and two women were injured.
- 354 During September 1990 two bombs exploded outside the *Beeld* newspaper offices in Johannesburg. The venue for the *Weekly Mail* film festival in Johannesburg was the target of a bomb attack, after a showing of a film called "How to make love to a Negro without getting tired". The *Orde Boerevolk* claimed responsibility for both attacks.
- 356 A white man petrol-bombed a Putco bus full of black passengers in Johannesburg. No one was injured.
- 357 In October 1990, a parcel bomb was delivered to a computer company in Durban, which did work for trade unions and anti-apartheid organisations. Several employees were ANC members and it was a venue for ANC meetings. Mr Nicolas James Elvin 'Nic' Cruise [KZN/KM/644/DN] was killed opening the parcel and three other workers were injured. The police detained six right-wingers in connection with a taxi rank bombing and the killing of Cruise, including three British citizens,.

358 The home of the American ambassador in Pretoria was the target of a bomb attack. The *Orde Boerevolk* claimed responsibility. Commercial explosives damaged a block of flats with black tenants and shop windows in Johannesburg. At the East London ANC branch launch, a petrol-bomb was thrown amongst the parked cars from a passing car.

359 Following announcements that the Group Areas Act was to be repealed and schools to be opened to all races, a number of schools were destroyed in a series of bomb blasts. A formerly white school in Pretoria, where ANC exiles' children were to be accommodated, was the target of two bomb attacks. Various radical right-wing groups simultaneously claimed responsibility. Two CP members, Mr Jan Petrus Kruger [AM2734/96] and Mr Marthinus Christoffel Ras [AM2735/96], bombed the Sabie Magistrates' Court in 1991 and the Lowveld High School in Nelspruit in 1992.

360 Another applicant, Mr JJC Botha [AM1703/96] applied for the bombing, together with four others, of Hillview School, Cosatu House as well as the Verwoerdburg and Krugersdorp Post Offices during 1991 and 1992.

361 Right-wing acts of sabotage and bombings resumed in late 1993, often with the explicit aim of derailing the election process. Four AWB members were convicted of a number of such acts, including robbery with aggravating circumstances, explosions and attacks on power stations in the former Transvaal during 1992 and 1993. The members were Mr Abraham De Klerk [AM0810/96], Mr JH Zietsman [AM0772/96] and Mr JA van der Linde [AM0809/96] and Mr Albertus Francois van der Merwe [AM0079/96].

362 Two BWB members from Cullinan, Mr Leo Froneman [AM0395/96] and Mr Pieter Johannes Harmse [AM3275/96], the latter also a commander in the BRL, were jointly convicted for an explosion at an Indian business complex in Bronkhorstspruit on 18 September 1993. Policeman Abraham Labuschagne died in the explosion and six people were injured. The bomb was home-made and one of a series made by the cell, who also aimed to stage a *coup d'état* by switching off the country's power supply. During their amnesty hearing, they handed in a video of a 1993 BWB meeting, during which it was stated that the party would declare war against the country. They were granted amnesty.

363 In 1993 an AWB Wenkommando member was arrested in connection with planned acts of sabotage against the Koeberg nuclear power station. In late 1993 a

Commandant of the AWB's Special Task Force, an explosives unit (established allegedly on the orders of Oelofse) was sentenced for several counts of sabotage in the Western Transvaal, including the blowing up the Munsieville electrical substation, and the transport and possession of explosives.

- 364 In February 1994, three AWB/AVF members, Mr JB de Wet [AM6466/97], Mr de Wet Johan Strydom [AM5168/97] and Mr Pieter Breytenbach [AM5167/97] members went on a bombing and sabotage spree with explosives received mainly from *Boere Krisis Aksie*. Mr Kleinbooi Ramolla [KZN/SMB/009/BF] was killed when an explosives device which they had planted detonated at a taxi rank in Bultfontein. Eight other explosions were caused by the two in the run-up to the election. Among the targets were two primary schools, the shops of three ANC supporters, and the SABC tower in Schweizer-Reneke.
- 365 An AWB colonel Jan Cornelis Labuschagne [AM3671/96] claimed responsibility for a series of explosions carried out with two other members, Mr Daniel Wilhelm van der Watt [AM3673/96] and Mr Johannes Jacobus Botes [AM3672/96] between September 1993 and February 1994. The three placed more than twenty explosive devices on railway tracks, power stations and in black townships to disrupt the infrastructure and gain publicity for the right-wing's anti-election cause. A number of people were injured.

### ***Pre-Election Bombings***

- 366 A number of people were killed on 24 and 25 April 1994, when eleven members of an AWB cell went on a bombing spree of targets, mainly (black) taxi ranks. The eleven were part of a group of twenty-six found guilty on ninety-six counts of pre-election bombings, murder, and damage of property. Altogether twenty people died and forty-six were injured.
- 367 Bombs were placed at four different targets after call-up instructions were allegedly issued on April 14. A pipe bomb was thrown out of a car in Bloed Street, killing three and injuring four. Another bomb was built into a trailer, which was then parked at a taxi-rank in Germiston, killing ten and injuring eight people. The third target was in Bree Street, Johannesburg, where a car bomb exploded killing seven and injuring thirteen people. Lastly, a car bomb was placed on the top floor of the Jan Smuts airport parking area. Nobody was killed in the explosion but a number of people injured. Several statements were received from victims of these bomb attacks.

368 Shortly after the election, thirty-six AWB members including the chief of staff and the leader of the *Ystergarde* were arrested and charged with nineteen counts of murder and 191 of attempted murder in the PWV area during the week before the election. The Commission received a number of amnesty applications from those who participated in these bombings. During their amnesty hearing, the group claimed to have acted on orders from General Nico Prinsloo (and Brigadier Leon van der Merwe). The applicants are Mr Nicolaas 'Cliffie' Barnard [AM6484/97], Mr Abraham Liebrecht 'Koper' Myburgh [AM6465/97], Mr Etiene Jacobus Le Roux [AM6467/97], Mr Jan Bastiaan De Wet [AM6466/97], Mr Gerhardus Daniel Fourie [AM6468/97], Mr Johannes Andries Venter [AM6477/97], Mr Jacobus Petrus Nel [AM6469/97], Mr Abraham Christoffel Fourie [AM6478/97], Mr Petrus Paulus Steyn [AM6479/97], Mr Johan Wilhelm Du Plessis [AM6480/97] and Mr Johannes Petrus Olivier [AM6483/97]. All had previously been convicted for their part in the bombings and received sentences ranging from three to fifty years in prison. An Amnesty Committee decision was pending at the time of reporting.

#### ***Other targeted attacks***

369 In August 1990 right-wingers chanted "AWB, AWB" to disrupt a Port Elizabeth students' meeting with ANC speakers. After the meeting a student and a journalist were attacked. In Bloemfontein a rock was thrown through an ANC member's window, with a note threatening to kill Mr Raymond Suttner who was due to speak at an ANC meeting.

370 The first open confrontation between State President de Klerk and the AWB took place in August 1991 at Ventersdorp when the National Party planned to hold a meeting in Ventersdorp, which was regarded as a Conservative Party constituency. The meeting was to be addressed by De Klerk. According to the AWB, the advertisement for the meeting stated that only NP members could attend. However, the AWB insisted that its supporters be permitted to attend as they wanted to discuss certain burning issues with the president. The AWB mobilised its followers and some 2 000 armed AWB members streamed into Ventersdorp. A confrontation with the police ensued. Three AWB members were killed and fifty-eight people were injured. Nearly the entire leadership of the AWB was arrested on charges of public violence. Eugene Terre'Blanche has applied for amnesty for the incident.

371 In June 1993, a crowd of 3000 demonstrating armed right-wingers invaded the World Trade Centre while negotiations were in progress between the government,

the ANC and other parties. The police guarding the premises were completely outnumbered and the crowd of men and women, mainly in AWB uniforms ignored instructions to stop. From atop an armoured vehicle Eugene Terre'Blanche shouted instructions, led the crowd around the police cordon and smashed the armoured vehicle through the plate glass doors of the Centre. The right-wingers occupied the chamber for more than two hours during which time they said prayers and sang "*Die Stem*". Their representatives handed over demands for a *volkstaat*. There were some reports of white police mingling with the right-wingers. Sixty-six right-wingers were arrested in connection with the invasion of the World Trade Centre.

372 The Bophuthatswana administration had been one of the founding members of COSAG (Concerned South Africans Group) and was later part of the Freedom Alliance. General Constand Viljoen of the *Volksfront* agreed to provide assistance to maintain Mangope's position and planned for a Boere-Aksie force to enter Bophuthatswana unarmed on 11 March 1994. They would then be provided with arms and rations by the head of the Bophuthatswana Defence Force, General Turner. It was agreed that the AWB would not be involved, since Mangope stated that they would not be politically acceptable to his own forces.

373 The plan was pre-empted when Eugene Terre'Blanche mobilised a force of 600 AWB members, who entered the territory on 10 March. They arrived armed and broke away from the command of the *Volksfront*. Some AWB members then began driving through Bophuthatswana, shouting racial abuse and shooting bystanders. Mr Ezekiel Moatlhodi [JB04764/03NW] was shot in his spinal cord by AWB members at Magogoe village. He states that:

*During that time I was together with my fellow ANC members, about 150, holding the branch meeting and chanting the revolutionary songs. Whilst singing the slogans, two white gentlemen, armed with firearms arrived and asked for help. We refused to grant a help. Few minutes later arrived heavily loaded AWB soldiers. They didn't waste time, they started shooting at us. They used torch-light to see us precisely. I was shot immediately when I start to run away.*

374 Mr Martiens Motsumi [JB05627/03NW] reported that:

*A 4x4 bakkie arrived carrying armed AWB members. They stopped their bakkie and immediately started shooting people at random. I ran for cover but was unfortunate as they shot me in my back (next to the spine) and my*

*left hand ... The AWB members were in the process of killing another employee when they were stopped by my boss... After our boss spoke to the AWB, they left the yard and continued shooting in Montshiwa township.*

375 The AWB members did not succeed in their aims and is generally seen to have signalled the end of the potential threat of the right-wing to engage in open warfare. Subsequent to the incident, right-wing unity under the *Volksfront* crumbled, Viljoen formed the Freedom Front and took significant sections of the right-wing into the electoral process.

THE COMMISSION FINDS THAT THE AFRIKANER VOLKSFRONT WAS RESPONSIBLE FOR THE COMMISSION OF GROSS VIOLATION OF HUMAN RIGHTS AGAINST PERSONS WHO BETWEEN APRIL 1993-MAY 1994 WERE PERCEIVED TO BE SUPPORTERS AND LEADERS OF THE ANC, THE SACP, UDF, PAC AND NATIONAL PARTY AS WELL AS OTHER GROUPS PERCEIVED NOT TO SUPPORT THE CONCEPT OF AFRIKANER SELF-DETERMINATION OR THE ESTABLISHMENT OF A 'VOLKSTAAT' AND THAT, TO THAT END, THE MOVEMENT'S POLITICAL LEADERS AND MILITARY GENERALS ADVOCATED THE USE OF VIOLENCE IN PURSUIT OF THE MOVEMENT'S AIMS AND/OR IN AN ATTEMPT TO MOBILISE FOR AN INSURRECTION.

IN MAKING SUCH A FINDING THE COMMISSION PLACED RELIANCE ON

- SPEECHES AND ORDERS BY THE MOVEMENT'S SENIOR LEADERS WHICH HAD THE EFFECT OF INCITING ITS SUPPORTERS TO COMMIT ACTS OF VIOLENCE AGAINST INDIVIDUALS AND INSTITUTIONS PERCEIVED TO BE THE ENEMY OF THE AFRIKANER;
- THE ARMING OF SUPPORTERS WITH WEAPONS IN CONTRAVENTION OF THE LAW;
- RANDOM ATTACKS BY MEMBERS ON BLACK PERSONS;
- CLANDESTINE COLLUSION WITH MEMBERS OF THE SECURITY FORCES AND/OR THE IFP EITHER TO COMMIT THE VIOLATIONS CITED ABOVE OR TO TRAIN PARAMILITARY FORCES TO COMMIT ACTS WHICH RESULTED IN THE LOSS OF LIFE OR INJURY;
- THE TRAINING OF SUPPORTERS TO UNDERTAKE VIOLENT ACTIONS DESIGNED TO PREVENT THE HOLDING OF ELECTIONS IN 1994;
- THE ESTABLISHMENT OF A VOLKSLÉËR AND OTHER PARAMILITARY GROUPINGS TO THREATEN INSURRECTION AND REVOLUTION WITH A VIEW TO DERAILING THE DEMOCRATIC PROCESS.
- BY VIRTUE OF THEIR LEADERSHIP POSITIONS IN THE MOVEMENT, THE COMMISSION FINDS THE FOLLOWING TO BE ACCOUNTABLE FOR THE GROSS VIOLATION OF HUMAN RIGHTS COMMITTED BY SUPPORTERS OF THE MOVEMENT: GENERAL CONSTAND VILJOEN, GENERAL PIETER GROENEWALD AND MR EUGENE TERRE'BLANCHE.

BROADLY SIMILAR FINDINGS ARE MADE AGAINST THREE OTHER GROUPINGS, NAMELY, THE *ORDE BOEREVOLK*, THE *BOERE WEERSTANDBEWEGING* AND THE *AFRIKANER WEERSTANDSBEWEGING* (AWB).

## ■ THE LIBERATION MOVEMENTS

### African National Congress

#### *The late 1980s: Operation Vula and negotiations*

376 In the year following the June 1986 national state of emergency, the government sought to re-assert its control over the highly militant and volatile conditions in townships around the country.

377 At this time, ANC was reassessing its own strengths and capacities. At the Arusha Conference in December 1987, the lack of a strong internal underground was identified as a crucial weakness. Flowing from this evaluation, *Operation Vula* was implemented with the intention of moving senior ANC leaders into the country so that strategic direction could be given from within South Africa. It was also at this time - around 1988-1989 - that the first indications of the possibilities of negotiation became apparent.

378 Realising the improbability of seizing state power through an armed insurrection, the ANC began considering the possibility of a negotiated settlement. At the same time, the organisation felt the need to continue building a strong internal underground network – including an internal military capacity. Under the banner of *Operation Vula*, the ANC continued with its clandestine activities while engaged in the process of negotiations. *Vula* was seen by some ANC leaders as an ‘insurance policy’: if the negotiation process failed, the ANC would still have some capacity to mount armed resistance.

379 *Operation Vula* was initiated by a 1986 National Executive Committee (NEC) resolution, and run under the auspices of the ‘President’s project’ chaired by ANC president Oliver Tambo. Others involved included Mr Joe Slovo (principal planner), Mr Mac Maharaj (recruiter and in-country commander), MK Deputy Commander Siphiwe Nyanda, Mr Ivan Pillay (administrator and project co-ordinator), Mr Ronnie Kasrils and Mr Alfred Nzo. Beyond this leadership, knowledge of *Vula* was restricted within the ANC to a small core of MK leaders, operatives and selected foreigners.

380 *Operation Vula* aimed to infiltrate into South Africa senior and middle levels of the ANC leadership in exile. The aim was to create an underground network that could co-ordinate actions against the former government and penetrate the South African security establishment for the purposes of collecting information.

381 Part of *Vula*'s task was to bring large quantities of weapons into South Africa, and to conceal them in 'dead letter boxes' so that they would be available if it became necessary. In the early 1990s, many such weapons were used by MK and SDU members in conflicts around the country. Indeed, the availability of weapons contributed significantly to the extent and nature of human rights violations in the 1990s.

382 In July 1988, four *Vula* operatives, including Maharaj and Nyanda, were smuggled into the country and established an underground 'Overall Leadership Committee' in Durban under Mr Jabu Sithole and a political mobilisation and 'Military Operations Committee'. Maharaj was responsible for decision-making and liaison with the *Vula* Committee in Lusaka and the Mass Democratic Movement. Nyanda was involved in the day-to-day activities of the operation. Foreign operatives rented safe-houses and assisted with logistics. A similar operation was set up in Johannesburg. The *Vula* network continued to expand and Kasrils entered South Africa at the end of 1989. Mr Mo Shaik was appointed the head of the *Vula* internal intelligence structure.

383 On the weekend of 6 July 1990, Durban Security Branch members arrested Mr Charles Ndaba and Mr Mbuso Shabalala. Captain HJP 'Hentie' Botha [AM4117/96] of the Security Branch intelligence unit, claims that this was a fiasco. His version of events is that he had recruited Ndaba as an informer in 1988. Ndaba then returned and became part of *Vula* in 1990. He thus knew of *Operation Vula* to the extent that Ndaba did. Ndaba and Shabalala were eventually killed by members of the Durban Security Branch after Ndaba signalled his intention to "take his chances with the ANC". Other members of *Vula* were subsequently arrested and later indemnified from prosecution<sup>8</sup>.

384 According to the police documents, *Vula* operatives rented or bought fourteen safe-houses in the country, nine in Durban and five in Johannesburg. The Security Branch discovered, from information found on disks in the *Vula* safe-houses, that weapons were to be brought into the country from 23 September 1989 to 23/24 June 1990. They allege that Nyanda acknowledged receipt of weapons in September 1989.

385 Nyanda confirmed that material was removed before the Security Branch could discover it. According to Ronnie Kasrils, he and Maharaj removed the weapons from places that they thought the police knew about. Kasrils said that these weapons formed part of a consignment that Mr Aboobaker Ismail handed it to

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<sup>8</sup> (Interview with Security Branch members, 28-29/07/97).

the SADF as part of the ANC agreement with the then government. He acknowledged that he did not know if all the weapons were accounted for and that some of them may have gone missing.

386 In a submission to the Commission, Major General Stadler and retired police officers stated that *Operation Vula* aimed to bring about an “insurrection by means of a People’s Army … the classical Maoist third stage of the revolution”. They claimed that *Vula* was mainly an initiative of SACP members.<sup>9</sup> According to Henri van der Westhuizen, formerly of the Directorate of Covert Collections (DCC), *Vula* reflected the tensions between the SACP-aligned Hani camp and the Modise camp in the ANC; *Vula* was a product of the Hani camp, spearheaded by ANC members who were also members of the SACP.

387 While it is not possible for the Commission to ascertain whether a ‘Hani faction’ linked to the SACP leadership was still intent on insurrection, *Operation Vula* was not linked to any specific human rights violations apart from those perpetrated by members of the security forces against *Vula* operatives.

#### ***ANC strategy in the period February 1990 to May 1994***

388 While the ANC leadership may have anticipated some political changes in the country in 1990, the rank and file membership was caught off guard by State President FW de Klerk’s announcement on 2 February 1990 that the government was unbanning the ANC, the SACP and the PAC. Many within the ANC met the announcement with deep distrust. The announcement of suspension of armed struggle came only six months later, sealed in the Pretoria Minute of August 1990. During this time, the ANC began to establish its legal presence inside the country, building a mass political movement by establishing branches and issuing membership cards.

389 Over the next two years, violence escalated as the ANC came into conflict with newly-established IFP branches on the East Rand. The simmering violence in KwaZulu and Natal intensified. Violent conflict also erupted between ANC and PAC members, between supporters of the liberation movements and members of homeland parties such as the African Democratic Movement (ADM) in Ciskei and members of vigilante groups and gangs, some of which were aligned to the IFP.

390 The ANC SDUs played an increasingly dominant role during this period, having been trained and armed by MK members. In practice, MK had little real control

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<sup>9</sup> (Submission by Foundation for Equality Before the Law, outline of chapter 17).

over the SDUs, although a number of ANC leaders applied for amnesty, giving details of their involvement in the establishment and training of SDUs. In addition, a large number of 'ordinary' ANC members applied for amnesty for acts carried out in the course of their SDU membership in accordance with the policies of local ANC leaders.

- 391 The seizure of power in Transkei by General Bantu Holomisa of the Transkei Defence Force (TDF) on 30 December 1987 positively affected the fortunes of both the ANC and the PAC: both went on to establish active cells in the territory.
- 392 By 1992, the ANC had embarked on a strategy of 'rolling mass action'. The strategy was used, in part, to apply pressure on those who were resisting re-unification. Although ostensibly a non-violent campaign, it did, on occasion, result in the commission of human rights violations.

#### ***Victims of ANC violations in the post-1990 period***

- 393 In the Western and Eastern Cape, the main victims of ANC attacks were police, PAC supporters, Ciskei headmen, members of the ADM, ANC members suspected of being informers or framed for other reasons, people caught up in localised Transkei conflicts over stock-theft and certain factions that became identified with or labelled as 'Inkatha'. In certain isolated areas, local councillors also continued to be targets of attack.
- 394 In the Transvaal townships of Tembisa, Ratanda, Katlehong, Bekkersdal, Kagiso, Thokoza, Soweto and KwaThema and others, UDF/ANC supporters, many in ANC SDUs engaged in conflicts with IFP supporters, with vigilante groups (such as the 'Toasters' and the 'Russians') and with AZAPO. Other victims of ANC SDU or ANC Youth League (ANCYL) violations were 'non-aligned' individuals who refused to co-operate with ANC mass campaigns such as marches or rent boycotts. Cases of conflict were also reported between ANC SDU and ANCYL members. One example is the Katlehong massacre, where SDU members killed fourteen other community members, some of whom were ANCYL members.
- 395 The Commission received information on a number of cases in KwaZulu and Natal where IFP members and supporters were the victims of attacks by ANC members and supporters. In the Orange Free State, cases of conflict were reported between UDF/ANC supporters and vigilante groups and gangs such as the 'Eagles', the 'Three Million Gang', as well as between UDF/ANC supporters and homeland parties such as the Dikwankwetla National Party (DNP) in QwaQwa.

396 These violations are dealt with in detail in Volume Three. For the purposes of this section, the role of the ANC as a perpetrator group is explored, in terms of the following categories of violations:

- a Violence relating to the campaign against homelands: violence in the Ciskei (against the ADM, the Ciskei security forces and traditional leaders), violence in KwaZulu and in the Orange Free State (against the Dikwankwetla Party);
- b Violence relating to political intolerance: violence in Fort Beaufort (against the PAC); violence on the East Rand (including the establishment of SDUs) and violations in reaction to Chris Hani's assassination;
- c Violence in other contexts: violence in Mount Fletcher, violence involving gangs in the Orange Free State and violence in Mpumalanga.

#### ***Ciskei: Violence relating to the campaign against homelands***

397 The ANC campaign for the re-incorporation of the homelands escalated from 1992 onwards. Many clashes were reported between ANC activists and individuals loyal to the homeland governments, in both civilian and military structures. In the Ciskei, Brigadier Oupa Gqozo used his newly-established party, the ADM, to counter the influence of the ANC. He also re-imposed the traditional 'headman' system. Such activities inflamed the situation further.

398 A report of the Network of Independent Monitors (NIM) lists a number of attacks and weapons and targets suggest that these attacks were carried out by MK. Main targets included headmen and police in the Ciskei, as well as members of the ADM. The list includes forty-eight hand grenade attacks, twenty-three AK-47 attacks, and the laying of limpet mines.

399 Ciskei Police figures list 113 incidents of public violence in 1991, 381 in 1992 and 255 in 1993. Of the victims, 84 per cent or 629 individuals were Ciskei government personnel, members of Ciskei government structures, traditional authorities or parties aligned to the Ciskei government. Fifty-one individuals, just under 7 per cent were aligned to the liberation movements (ANC and PAC) or their allies (COSATU, SANCO or SACP).<sup>10</sup>

400 The majority of these attacks were carried out by supporters of the ANC, who fell under no military command structures and usually did not have sophisticated weapons. This is borne out by Ciskei police figures which indicate that, of the

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10 (Figures from Eastern Cape CIS files).

attacks above, 64 per cent (484) were petrol bomb or arson attacks; a further 6 per cent (42) were classified simply as 'intimidation'. Of the remainder, there were eighty-four attacks (12 per cent of the total) with hand grenades or bombs and sixty-seven attacks (or 9 per cent) with firearms (AK-47s, R4 rifles or pistols).<sup>11</sup>

401 There is also evidence that some SDU structures were set up in the Eastern Cape in this period, and that they obtained arms from the Regional MK Command based in Umtata. At the May 1997 'recall hearings' of the ANC, the ANC leadership said that there were no organised MK operations against Brigadier Gqozo's rule, nor against structures of the Ciskei government, traditional authorities such as headmen, or members of the ADM. MK Commander Ronnie Kasrils told the Commission:

*It is clear from operations that were conducted arising out of the oppression in the Ciskei that former MK cadres were involved in hitting back, in responding, but this was never discussed at MK command level.*

402 While the ANC denied that its military headquarters authorised any operations in this period, there is evidence that the ANC continued to send considerable numbers of people outside South Africa for training. In the Eastern Cape, the ANC continued to conduct training and facilitate the distribution of arms through the MK regional command in the Transkei.

403 There was also evidence of strategic differences or divisions within the ANC on how to respond to the violent conflict. Some acts of violence were attributed to 'militant factions' who believed they were carrying out ANC, SACP or MK policy. In some instances, MK expelled such elements to make it clear that they were acting outside of ANC policy. One such case is Mr Nceba Bobelo, an MK member involved in the Queenstown SDU structure who, after involvement in 'criminal acts' including a murder, was eventually disarmed and expelled by the MK Command.

404 Ciskei Defence Force troops opened fire on an ANC protest march in Bisho on 7 September 1992, killing twenty-nine ANC marchers and one of their own soldiers (see above and in Volume Three). After the massacre, violence escalated further as angry ANC supporters - including MK members and members of armed SDUs - engaged in revenge attacks against representatives of the Ciskei government. One such case is that of the killing of a headman in Alice by ANCYL members.

405 Mr Zuko Makapela [AM6438/97] and Mr Ludumo Mati [AM6439/97] applied for amnesty for the stoning and burning to death of Mr Ndodiphela Maseti in Upper

Gqumashe, Alice on 28 September 1992. Maseti was a headman and thought to be a member of the ADM. A group of ANCYL members attacked and burnt down Maseti's home. The following day, the ANCYL members apprehended Maseti, beat him severely, stoned him and set him alight. Makapela and Mati admitted to participating in the attack, and were granted amnesty in July 1998 on the grounds that it was "clearly of a political nature".

406 Many former headmen and supporters of the homeland joined the PAC. Political rivalry between ANC and PAC members, or organisations aligned to one or the other, began to have violent consequences.

#### ***KwaZulu/Natal: Violence and the killing of IFP leaders***

407 Evidence before the Commission indicates that there was no overall strategy on the part of the ANC to kill IFP leaders in the 1990s. However, a number of IFP leaders and members were killed by ANC members acting in various capacities – as members of SDUs, as residents of ANC-supporting communities and, less often, as members of MK.

408 In most IFP submissions to various commissions of enquiry, no distinction was made between MK and SDUs as paramilitary units. The activities of the local SDUs/paramilitary structures were seen to have been directed by MK. Whilst the Commission received amnesty applications from MK members who facilitated and armed the SDUs, in the majority of incidents analysed there is very little evidence of MK involvement in the direct or indirect killing of IFP office-bearers.

409 In a submission to the Goldstone Commission in 1992, Mr Kim Hodgson of the IFP said that, while the IFP believed that MK had been involved in the violence from the beginning of the conflict in KwaZulu/Natal, there had been an unprecedented military offensive against the IFP since August 1992. This included covert ANC hit-squad operations in KwaZulu/Natal and the systematic killing of IFP leaders.

410 After the ANC had made its first submission, the Commission asked it to clarify its military policy towards the IFP and whether the ANC leadership considered members of the IFP to be "legitimate military targets". The ANC responded that it had no military policy with regard to Inkatha and that it had never considered Inkatha members or officials as targets simply because they aligned themselves with Inkatha. It attributed attacks on IFP-aligned individuals to the roles these individuals played as 'state collaborators', whether as warlords, vigilantes,

councillors or informers. The ANC denied "allegations to the effect that MK has been engaged in 'serial mass murder' of Inkatha officials and alleged that this perception was a STRATCOM operation designed to prevent Inkatha from throwing in its lot with the ANC as the negotiation process began".

- 411 Between 1990 and 1993, MK cadres were implicated in the murder of seven IFP leaders. In two cases – those of Mr Arnold Lolo Lombo and Mr Mfunzelwa Ngcongo – there was sufficient evidence to suggest MK involvement.
- 412 On 31 October 1990, Mr Arnold Lolo Lombo [KZN/GSN/073/PM] was killed with a 9mm pistol by two gun men posing as police detectives at his place of employment in the Pietermaritzburg city centre. Lombo was the IFP chairperson of the Mvundleni area. Mr Sipho Motaung [AM3902/96], Mr Nhlanhla Sibisi [AM3903/96], Mr Johannes M Sithole [AM3904/96] and Mr Bekimpindle Dlamini [AM3905/96] applied for amnesty in connection with this incident. Motaung and Sibisi were trained members of MK. Motaung appears on the certified personnel register of MK, Southern Natal region and was integrated into the SANDF. He died in 1997. The applicants were granted amnesty on 1 August 1997.
- 413 The family of Mr Mfungalwa Ngcongo [KZN/FS/138/DN], an IFP organiser in Umbumbulu, told the Commission that he was shot in Ntiyane, Umbumbulu on 1 November 1991. In the week preceding his death, there were several attacks in the area. Six people were killed at a wedding ceremony at the home of IFP leader Mr Mbuzini Shezi, and IFP member Mr Falo Ngcongo was injured in a hand grenade and a rifle attack on his home. On 3 November the KwaZulu Police (KZP) station in Umbumbulu was attacked with RPG7 rockets, and on 11 November four people were killed and two KZP members injured in an RPG 7 rocket attack on a police van.
- 414 According to Security Branch records for this period, the main suspect was Mr Sbu Mkhize. It was noted that he appeared to be driven by revenge for the death of his father, ANC leader Sipho Mkhize, allegedly at the hands of KZP member Constable Simphiwe Mvuyane. Sbu Mkhize died in a shoot-out with police in July 1992. He was listed as deceased on the MK integration list but does not appear on the certified personnel register of MK. There was also a suggestion that Sbu Mkhize was involved in the murder of IFP leader Mr Wiseman Mthembu in Port Shepstone in December 1991.

415 On 22 February 1992, Mr Mnandi Dladla, IFP deputy-secretary in Wembezi, was shot near his home by an unidentified gunman armed with an AK-47, who fired at him from the vehicle of ANC leader Mr Teaspoon Mkhize. Witnesses stated that Mkhize and his son, Mr Jan Mkhize, were in the vehicle and confronted Dladla. Family members implicated an MK cadre, Mr Ntela Sikhosana, in the murder, although none of the eye-witnesses did. Ntela Sikhosana died on 23 August 1998.

416 On 30 September 1992, Gideon Sibiya (IFP Chairperson, Ningizimu), Mthembeni Xulu (IFP organiser) and a Mr Nene were shot at SJ Smith hostel in Durban. A hand grenade was hurled at Sibiya's vehicle and they were then gunned down with an AK-47 rifle. An MK cadre, Mr Vusumuzi Zungu, was found injured at the scene. An inquest report found that he and others participated in the attack. The IFP noted that Zungu had been militarily trained in Angola in 1984 and 1987. A Vusumuzi Zungu (Bonga Madlala) appears on the certified personnel register of MK and the MK integration list.

417 None of the witnesses identified the assailants. Sibiya's son stated that he saw Zungu when he returned to the scene after reporting the incident to the police. An AK-47 with blood stains and other armaments were found; the blood stains were tested and could have matched that of Zungu. However, Zungu tested negative for gunshot residue on his hands. Insufficient evidence meant that the Commission could not resolve the discrepancies and was unable to make a conclusive finding in this matter.

418 On 18 March 1993, Mr John Thembani and Mr Boyce Mpisane, both IFP convenors in Umlazi CC section, were gunned down with an AK-47 and 9mm pistol in Thembani's yard. ANC member, Mr Sibonakaliso Boni Mchunu, was convicted and sentenced to fifteen years' imprisonment. A second suspect, Mr Thembani Nzama, could not be traced. The police interrogated a Mandla Sithole and others after receiving information that the deceased had been warned about an MK attack on them that day. Sithole could not be connected to the crime.

419 UDF/ANC community members or youth were implicated in the killing of a number of IFP supporters, including office-bearers. The majority of reported cases occurred in Pietermaritzburg. Most were unpremeditated. Precipitating factors in the attacks were:

- a The victim was passing through or visiting in an UDF/ANC aligned stronghold (section or area) on foot or in public transport. The attacks were opportunistic and there was no evidence of a common perpetrator grouping. Included in

this category are Mr Dumisani Awetha and Mr Elliot Bongani Mncwabe, both sons of well-known IFP members.

- b The victim was living in a UDF/ANC stronghold. Mr Meshack Xaba, a hostel resident in Bruntville, was killed as he walked towards the IFP-supporting hostel enclave in the midst of a UDF-aligned community. Three members of the Shandu family [KZN/LPM/100/EM] were killed on suspicion of being IFP members four months after they moved to Umgababa from KwaMakhutha.
- c The victim intervened in some way in an action by a group of UDF/ANC members. Two IFP supporters were killed on 11 February 1990 when they drove through a funeral procession for a UDF member in Mpumalanga in 1990.
- d The victim died in a defensive attack. Councillor Shadrack Dlamini was petrol-bombed by ANC youth in KwaMakhutha in 1987, after he opened fire on a group which had come to discuss the water shortage with him. One youth was injured. Mr Momo Ndwalane [KZN/EDS/102/PS], an *induna*, was stabbed in Murchison in December 1991 after he approached youths in a threatening manner armed with a G3 firearm after the entire community failed to attend the Chief's Christmas meeting.
- e The victim died in an ongoing fight between ANC-aligned and IFP supporters. Mr CC Cele, IFP chairperson at SJ Smith hostel, was killed when a petrol bomb was thrown into his room in retaliation for an attack on the ANC leader in the hostel earlier in the day.
- f The victims were killed in a 'factional dispute' that had assumed political overtones. Mr Simon Buthelezi, Mr Sotho Makhatini of the IFP and herbalist Mr M Gumede were killed in an attack on their kraals in Swayimane in October 1989 by 500 members of the ANC-aligned Mabheleni clan.
- g The victim was involved in the traditional structure or was an office-bearer. Mr Alson Mbambo, an *induna* in Esikhawini, was killed by ANC youth in June 1992 at a communal water pump.

420 In the majority of these attacks, the victims were stabbed, stoned or petrol-bombed. In nine incidents firearms were used.

#### ***Killings associated with SDUs***

421 In its second submission to the Commission, the ANC said that weaponry was supplied to certain SDUs by selected units of the ordnance department of MK,

*through dead drops or by providing sketches to senior personnel, which were then passed on. These ordnance units did not know to whom the material was passed on.*

- 422 A number of MK cadres based in KwaZulu Natal and elsewhere applied for amnesty for arming and training the SDUs. The MK commanders for Southern Natal and Natal Midlands – namely, Mr Sipho Joel Sithole [AM5950/97] and Mr Ntela Sikhosana [AM6332/97] (now deceased) – were prominent amongst these.
- 423 Former MK member Dick Absalom Ngwenya [AM0759/96] said that he was involved in training SDUs in Bulwer between 1990 and 1993. He trained the youths with weapons that he received from Mr Musi Thusi, his MK commander, before February 1990. Thusi was killed on the South coast.
- 424 In its second submission to the Commission, the ANC said that trained SDUs patrolled townships at night, setting up roadblocks and checking on unusual movements:

*In some instances the units carried out attacks on known warlords in their townships ... Tensions arose between HQ and Natal ANC structures where some leaders called for an offensive approach to deal with Inkatha warlords and others who had been perpetrating violence with impunity for years ... Some SDUs became little more than gangs of criminals at times led by police agents, and inflicted great damage on popular ANC aligned-community structures: this was well illustrated in the case of the notorious Phola Park SDU, which was led by an agent of the SAP ... Another instance of this nature is provided by the activities of police agent Sifiso Nkabinde in the Midlands.*

- 425 UDF/ANC aligned paramilitary structures were implicated in the murder of thirty-one IFP office bearers. In twenty-six cases, the Commission obtained sufficient information to link ANC-aligned groupings or paramilitary structures to the killings – through ballistic evidence, the implication of perpetrators and similarities in *modus operandi*. This was particularly the case in Richmond in the Natal Midlands, in Umbumbulu and Port Shepstone on the South Coast.
- 426 In Port Shepstone, a group of youths, allegedly operating under the command of Mr Dululu Sipho Dlamini and Mr Zakhile Gcaba, were implicated in the murder of four IFP office-bearers in 1991 and 1992. The youth do not appear on the certified register of MK personnel.

427 IFP supporters Mr Bangukufa Cele [KZN/EDS/011/PS] and Mr Wiseman Mthembu [KZN/QM/0021/PS] from Mthengwane, Murchison (near Port Shepstone) were killed in late 1991. Cele was killed along with six others when three kraals were attacked by youth armed with AK-47 rifles. Gcaba and Dululu Dlamini were implicated by co-perpetrators as leaders of the group. In the case of Wiseman Mthembu, he and Mr Goli Mbambo were ambushed in a motor vehicle by a small group of men; 9mm and 18mm cartridges were found at the scene. Mbambo was a suspect in the murder of two ANC members and this attack was seen in their community as a reprisal killing.

428 In mid-1992, Mr Bhabhalaza Dladla and Mr Samson Majola [KZN/EDS/064/PS] were killed in Murchison. Dladla was killed when two kraals in his area were attacked by a group armed with AK47s and shotguns, allegedly in retaliation for an attack earlier on the ANC ward of Newton. Majola was killed when his vehicle was ambushed by attackers armed with an AK-47. ANC members alleged that Majola was implicated in the murder of an ANC supporter.

429 In all these cases, the police dockets were closed undetected.

430 In Umbumbulu on the upper South Coast of KwaZulu/Natal, two IFP office-bearers Mr Dominic Mhlongo [KZN/NMM/111/PM] and Mr Shiyabekhala Kweyama were killed in June 1992. Mr Muizenhlanhla Msomi [AM5218/97] and others were charged with these murders as well as the possession of unlicensed firearms. Msomi, who is described in the court records as the '*induna* of the youth' in the area, was acquitted for the murder of Mhlongo owing to contradictions in the witnesses' stories. He was convicted for the murder of Kweyama but the conviction was overturned on appeal. One suspect was killed by police and another suspect could not be traced.

431 Kweyama was a taxi driver in Mpumalanga and was killed in Folwani on the South Coast. The Human Rights Commission (HRC) report for June 1992 notes that taxis were being targeted for attack and were used in attacks by both sides. Mhlongo was allegedly targeted as he was implicated in the murder of the accused's friend.

432 In other areas, groups of well-armed ANC-aligned youths or men killed IFP office-bearers; however no consistent pattern emerged in the evidence as to the main persons involved. Different perpetrators were named; weapons used could not be linked to cases. There is evidence, however, of the involvement of an ANC

leadership figure in one case. In July 1992, Mr Mvimbuzeli Mchunu's home in Nomganga, Wartburg, was attacked by a group of ANC members. The group were allegedly briefed and armed by the ANC chairperson before the attack. AK-47 cartridges were found at the scene. The deceased had allegedly told a named ANC member that he should attend IFP meetings or leave the area.

### ***Killings by Extra Judicial Tribunals***

- 433 The Commission received reports of killings performed by UDF/ANC-aligned individuals, after findings of extra-judicial tribunals or area committees. Victims included IFP office-bearers and individuals associated with the former state and former state security forces, such as alleged informers, tribal policemen; in some cases, witchdoctors were targeted.
- 434 In March 1990, Mr Cetswayo Johnson Mbhele was stabbed and burnt in Murchison. A group of ANC youths found a tribal policeman, Mr Johannes Ndlovu, 'guilty' of being a police informer. Ndlovu was forced to lie on Mbhele's burnt out vehicle. His daughter watched as he was taken to a rock nearby and 'necklaced'. Mr Zakhele Gcaba and other youth were implicated by 'comrades' at the scene of the proceedings. In both cases, the Attorney-General declined to prosecute as suspects could not be traced. Many of the suspects later died in violent circumstances and the dockets were closed undetected.
- 435 Also in March 1990, Mr H Mzindle, a tribal policeman, was 'necklaced' in Bethania, allegedly by a group of 'comrades'. In Ezakheni near Ladysmith, Mr Francis Bhekani Mvelase, the son of a KwaZulu MP, was killed by a group of ANC youths. The ANC leader was present at the scene but allegedly left before the necklacing. The accused were acquitted at a trial.
- 436 In the Port Shepstone area, Mr Sishonke Ndwalane [KZN/MP/257/MP] was 'necklaced' by a group which included his own sons in March 1990 on suspicion of being a witchdoctor. The youths involved admitted to police that they had tried the deceased and, in one instance, a youth who stabbed Ndwalane admitted stating that he was a witchdoctor.

### ***Violence relating to political intolerance***

- 437 In the years immediately following the 1990 unbanning of organisations, violence escalated as the ANC came into conflict with newly established IFP branches

on the East Rand, The simmering violence in Natal reached new heights. Violent conflict also erupted between the ANC and PAC members, members of homeland parties such as the ADM in Ciskei and members of gangs which were sometimes aligned to the IFP. The ANC characterised the post-1990 violence as 'low intensity conflict' instigated by a 'third force'. It explains the involvement of its members in such violence as self-defence, essentially against attempts by elements within the former state and its security forces to destabilise the transition and weaken its potential to govern effectively. Opponents of the ANC explain the violence as political intolerance, and attempts by the ANC to exercise hegemony and prevent the growth of political opposition in the black community.

- 438 Conflict between supporters of the ANC and supporters of the PAC broke out in violence in early 1992.
- 439 Violence in Fort Beaufort flared up in March 1992 when police used tear gas, rubber bullets and birdshots to disperse a crowd that was stoning the police station. One man died and seven others were injured. This incident is apparently not related to the PAC/ANC conflict, but indicated that the township was still volatile. Towards the end of 1992, sporadic violence flared up again when a bakery truck was petrol-bombed and set alight, and a grenade was thrown at the house of a councillor in Tinis township. No one was injured in these incidents. Early in October, two men – Mr Linda Mnyazi and Mr Mluleki Izaac Qamani – were assaulted, killed and burnt near Dorrington township in violence that took place in the wake of the Bisho massacre of September 1992. The violence resulted in a state of emergency being declared for Fort Beaufort and other towns in the former Ciskei.
- 440 In February 1993, an ANC/PAC 'feud' broke out in Fort Beaufort and three men were killed and several seriously injured in violence in three separate incidents: Mr Luvuyo Mkwalase was shot in the chest and declared dead on arrival at Fort Beaufort hospital. The body of Ms Nomangwane Mandita was found in Tinis township with multiple burns and a head wound. Mr Zwelenkomo Afrika Swartbooi [EC0723/96ALB] died in Adelaide hospital as a result of multiple head injuries caused by a sharp object.
- 441 Police said they were also investigating five cases of attempted murder: Mr Thamsanqa Grootboom [EC2361/97ALB] was shot in the chest and hospitalised. Mr Felisizwe Lucky August [EC0719/96ALB] sustained serious head injuries and was hospitalised. Mr Mthethetheli Mana [EC2356/97ALB] was shot in the arm at his Mpolweni township (Fort Beaufort) house. Reverend Swelandile Kotsele was

shot in the buttocks and hospitalised. Mr Madoda Resha was treated for shock after a gunman fired at the vehicle in which he was travelling. Four people were arrested for being in possession of weapons and police recovered other arms and ammunition.

442 Police also investigated three cases of arson after houses in Dorrington and Mpolweni were set alight. The media reported that residents "of the mostly ANC-supporting township" claimed that "PAC supporters were responsible for these attacks and vowed to defend themselves. They accused police of siding with the PAC".

443 On 21 February 1993, Ms Nomangwane Mandita, a matriculant at Inyibiba High School and a member of Pan African Students' Organisation (PASO) was 'neck-laced' by ANC supporters. Mandita had left her rented room and went to stay with Ms Nomsa Mpangisa after receiving threats from ANC supporters. On the day of her death, a group set fire to Mpangisa's house and abducted her and Mandita. The two were found hiding in the house of PASO office-bearer Mr Thozamile Tiyo and taken to another house. Mpangisa was locked in an outside room, and escaped. Mandita was carried away and 'necklaced'.

444 Violence continued in early March, with a number of houses being set alight. After a further attack on a home involving automatic weapons, authorities imposed a curfew on the townships of Fort Beaufort in terms of the emergency regulations. On 23 March, 800 children fled in panic from Ilingelabantu Primary School to escape a group of PAC-supporting youths. Some children broke windows trying to run away and were injured. ANC spokesperson Phila Nkayi said the conflict started when

*a PAC-supporting teacher had been promoting children indiscriminately to higher standards. The ANC delegation challenged him. The PAC called for reinforcements from other regions. That's how the friction started.*

445 PAC regional chairperson Knox Tsotsobe disputed this, saying that supporters of the ANC were responsible for the clashes among schoolchildren. He believed COSAS supporters were responsible for burning the house of a school teacher by the name of Lata Camagu.

446 On 25 March 1993, PASO chairperson at Thubaletu High School, Mr Lata Camagu, was gunned down at his home in Tinis township. He was shot thirteen times with an AK-47 and died in hospital. Camagu was the PASO chairperson at

Thubalethu High School. No one was arrested for the murder. On 3 April, the PAC named three ANC members as responsible for killing PAC supporters. They also claimed that ANC members whose names were known to the police were responsible for the death of Mandita, but had not been arrested. They accused the SAP of conspiring with the ANC to drive PAC members out of the area.

447 ANC Border media officer, Mr Mcebisi Bata, denied the allegations and alleged in turn that Camagu had been killed by PAC members because he was "drifting away from PAC students". He appealed to the PAC to come back to the table and stop fighting. He said ten ANC supporters in Fort Beaufort had been arrested and tried for public violence and illegal possession of firearms. The SAP also denied collusion with the ANC. On the same day that the ANC statement was issued, it was reported that a twenty-two year-old man narrowly escaped death and was hospitalised after being 'necklaced' by a number of men at 'Necklace Valley'.

448 In October 1993, four men and a woman were tried for the 'necklacing' of Ms Nomangwane Mandita in Grahamstown supreme court. They were also charged with arson and the kidnapping of Ms Nomsa Mpangisa and for setting alight a house belonging to the Bhofolo Town Council in Dorrington township in February 1993.

#### ***East Rand: Violations committed by SDUs and other ANC members***

449 Violent conflict started in late 1990 in the townships of East Rand, when the ANC suspended the armed struggle, and the IFP was established as a political party and set up branches in hostels in various Reef townships.

450 Many of the violations committed by the ANC in this period were committed by paramilitary structures known as SDUs. The ANC argued in its first submission to the Commission that these structures were established in response to "grass-roots demands for protection against the onslaught" of violence which began in August 1990, and that by the end of 1990, "pressure for the formation of SDUs had reached fever pitch". The ANC emphasised that the SDUs were to be 'non-partisan' bodies established within local communities for their protection. They claim that, "It was made clear that the overall control of SDUs was to remain with community structures and MK cadres were to participate as members of the community. MK command was to play a secondary role". However, given the climate of political intolerance which prevailed and the role of senior members of MK in training and organising SDUs, it happened that in many cases the SDUs were seen as ANC structures. They have thus been analysed as 'paramilitary structures' of the ANC.

451 The ANC's second submission to the Commission details the manner in which SDUs were established and trained. The document entitled *For the Sake of Our Lives* is appended to the ANC submission as an example of the instructions given by MK leadership for the training of SDUs in the 1990s. Regarding the setting up of SDUs, the ANC told the Commission:

*Various clandestine units for the training and organisation of the various SDUs were set up, and some cadres were tasked to provide weaponry where possible ... Selected members of MK, including senior officials from the command structures, were drawn into an ad hoc structure to assist with the arming of units ... We do not have a record of MK's role in SDUs since they were not HQ controlled structures.*

452 The Commission received amnesty applications from Mr Ronnie Kasrils [AM5509/97], Mr Robert McBride [AM7033/97], Mr Aboobaker Ismail [AM7109/97] and Ms Janet Love [AM6652/97] – all members of the MK Command and senior ANC leadership – for their involvement in the establishment of SDUs. In addition, there are applications from ANC leaders Mr Jeffrey Thamsanqa Radebe [AM7170/97] and Mr Alec Erwin [AM6091/97]. As regards the East Rand conflict, the amnesty applications pertaining to the involvement of SDUs in conflict and violence were received from ANC members Mr Esau Chechela Machitje [AM7634/97], Mr Michael Khinini Phama [AM3155/96] and Mr Marvin Mokgale Maesela [AM3149/96].

453 A large number of violations by the ANC in this period involve the killing or severe ill treatment of ANC members by other ANC members. The amnesty hearing for members of the Katlehong SDU was heard in Boksburg in March 1998. In this application, members of the SDU testified that they had killed fourteen members of their community, including members of the ANCYL, because of conflict between the two groups in this period. The political motive given for these acts was that they were acting for the 'self-defence' of their community against an 'enemy', defined in this case as being certain members of the ANCYL.

454 The Commission asked the ANC leadership whether it was not irresponsible of the ANC to arm and train a force over which it did not exercise control. In response, Ronnie Kasrils acknowledged that "It was a very problematic situation and one could say at times extremely confusing". However, he stressed the point made in the ANC submission that it "was made clear that the control (of these structures) was to remain with community structures. MK members were to participate as members of the community".

### ***Accumulation and distribution of weapons for the SDUs***

455 After the ANC was unbanned and the leadership returned to the country, the ordnance department continued to play a role in the distribution of weapons. In the second ANC submission, it is noted that it was agreed that selected SDUs, particularly in the Reef area, would be assisted in arming themselves. Selected MK members, including senior officials from the command structure, were drawn into ad hoc structures to assist in the arming and training of units. This was in line with the ANC policy of assisting communities to defend themselves as decided at the 1991 MK conference in Venda. In the 'recall hearings', Mr Thabo Mbeki testified that the original intention was to get arms caches licensed and distributed legally to the SDUs, but this did not happen.

456 According to Kasrils, he was given the responsibility of ensuring the SDUs were provided with weapons. At this time, he was a member of the NEC of the ANC. He turned to Aboobaker Ismail and Riaz Saloojee for assistance. They created dead letter boxes (DLBs) in the worst hit areas - Durban, Pietermaritzburg, Vaal triangle, East and West Rand, Eastern Cape including Ciskei and the Western Cape. He claimed to have passed these to Chris Hani who then passed them on to those responsible in the areas concerned.

457 In other areas, SDUs made their own arrangements to obtain weapons from the central ordnance caches and/or outside the country. In the southern Natal region, an MK unit comprising of *inter alia* Mr Sipho Sithole [AM5950/97], Mr Vusi Ngobese, Mr Sipho Magwaza and Mr Mandlenkosi Makhoba [AM6620/97] were charged with various counts in relation to the transportation of weapons into South Africa from Mozambique through the Golela border post in 1992 and 1993. According to Sipho Magwaza, the weapons formed part of a cache laid down by central ordnance. He noted that not all areas had access to these weapons. His grouping had a personal relationship with an MK commander (whose name he did not wish to reveal) who assisted them in obtaining these weapons in Mozambique. These weapons were then distributed to various cells by MK 'Chief'. No register was kept of the weapons distributed and their final location is allegedly unknown.

458 Yet other amnesty applications indicated that certain SDUs obtained weapons and ammunition from sources other than central ordnance. SDUs, such as the Katlehong and Thokoza structures, collected funds from the community and gave them to their logistics officer to buy weapons in Phola Park<sup>9</sup>. According to an MK member interviewed by the Commission, in some areas ANC members

See Amnesty application of G Vilikazi [AM7730/97], AN Maci [AM 7635/97] and Meshack Thulo [AM 7714/97]

bought weapons from hostels and/or IFP dominated areas such as Tugela Ferry under the guise of being IFP supporters. In some cases, ANC members obtained arms by stealing them from police and other considered to be 'enemies'.

459 Kasrils stated that strict instructions were sent out that the weapons were to be used for self-defence only. However, the fact that SDUs were armed and yet were not under any clear military discipline led to numerous situations in which human rights violations occurred. Two examples of this are the Katlehong SDUs on the East Rand (see Volume Three) and Khayelitsha SDUs in Cape Town (see above).

### ***Violence in the wake of Chris Hani's assassination***

460 In 1993, Mr Glen Weakley and Mr Alistair Weakley were killed in the Transkei by ANC members in the wake of Chris Hani's assassination. Their sister Ms Roslyn Stratford testified that Alistair, a lawyer from Grahamstown, and his brother Glenn, an engineer from Durban, were on a fishing holiday when they were ambushed and shot dead. The five attackers were all arrested and appeared in Umtata supreme court on murder charges. The accused admitted to being members of the ANCYL and claimed to have been driven by revenge for the death of Chris Hani. However, it is clear that in this case the ANC's policy was not to engage in acts of violence in retaliation for Hani's death – especially not against white civilians – and the ANC as a party cannot be held responsible for the actions of these members (see above and further in Volume Three)

WHILE THE COMMISSION ACCEPTS THAT THE VIOLENT CONFLICT THAT CONSUMED THE COUNTRY IN THE POST-1990 PERIOD WAS NEITHER INITIATED NOR IN THE INTERESTS OF THE ANC, THE ANC MUST NONETHELESS ACCOUNT FOR THE MANY HUNDREDS OF PEOPLE KILLED OR INJURED BY ITS MEMBERS IN THE CONFLICT. WHILE THE ANC LEADERSHIP HAS ARGUED THAT ITS MEMBERS WERE ACTING IN SELF-DEFENCE, IT IS THE COMMISSION'S VIEW THAT AT TIMES THE CONFLICT ASSUMED LOCAL DYNAMICS IN WHICH PROACTIVE REVENGE ATTACKS WERE CARRIED OUT BY BOTH SIDES. THIS SITUATION WAS EXACERBATED BY HIGH LEVELS OF POLITICAL INTOLERANCE AMONG ALL PARTIES, INCLUDING THE ANC. FURTHER, THE COMMISSION CONTENDS THAT THE LEADERSHIP SHOULD HAVE BEEN AWARE OF THE CONSEQUENCES OF TRAINING AND ARMING MEMBERS OF SDUS IN A VOLATILE SITUATION AND IN WHICH THEY HAD LITTLE CONTROL OVER THE ACTIONS OF SUCH MEMBERS.

THE COMMISSION THEREFORE FINDS THAT, IN THE PERIOD 1990-1994, THE ANC WAS RESPONSIBLE FOR:

- THE KILLINGS, ASSAULTS AND ATTACKS ON POLITICAL OPPONENTS, INCLUDING IFP MEMBERS, PAC AND AZAPO MEMBERS AND MEMBERS OF THE SAP;
- CONTRIBUTING TO A SPIRAL OF VIOLENCE IN THE COUNTRY THROUGH THE CREATION AND ARMING OF SDUS. WHILST THE COMMISSION ACKNOWLEDGES THAT IT WAS NOT THE POLICY

OF THE ANC TO ATTACK AND KILL POLITICAL OPPONENTS, THE COMMISSION FINDS THAT IN THE ABSENCE OF ADEQUATE COMMAND STRUCTURES AND IN THE CONTEXT OF WIDE SPREAD STATE-SPONSORED OR DIRECTED VIOLENCE AND A CLIMATE OF POLITICAL INTOLERANCE, SDU MEMBERS OFTEN 'TOOK THE LAW INTO THEIR OWN HANDS' AND COMMITTED GROSS VIOLATIONS OF HUMAN RIGHTS.

- THE COMMISSION TAKES NOTE THAT THE POLITICAL LEADERSHIP OF THE ANC AND THE COMMAND STRUCTURE OF MK HAVE ACCEPTED POLITICAL AND MORAL RESPONSIBILITY FOR ALL THE ACTIONS OF ITS MEMBERS IN THE PERIOD 1960-1994 AND THEREFORE FINDS THAT THE LEADERSHIP OF THE ANC AND MK MUST TAKE RESPONSIBILITY AND BE ACCOUNTABLE FOR ALL GROSS VIOLATIONS OF HUMAN RIGHTS PERPETRATED BY ITS MEMBERSHIP AND CADRES IN THE MANDATE PERIOD.

## Pan Africanist Congress

461 After the unbanning of the liberation movements on 2 February 1990, the PAC adopted a different strategic position to that of the ANC. While the ANC engaged almost immediately in 'talks about talks' with government representatives, the PAC told the Commission that it had held a principled approach to negotiations and believed that "one must negotiate from a position of strength". The PAC called for the formation of a patriotic front and for the establishment of an elected constituent assembly to draft a new constitution. They called for any meeting between the liberation movements and the regime to take place at a neutral venue under neutral chairpersons, so as to ensure a "level playing field". According to the PAC, the failure of CODESA to adhere to these principles led to the PAC's withdrawal. The PAC claims that: "Throughout this period the PAC adopted a positive outlook and urged the negotiating parties to be principled". It was, nevertheless, during this period of negotiations that the PAC's military wing APLA engaged in its most effective campaigns and was responsible for most of the human rights violations attributed to the organisation.

462 The targets of APLA attacks were twofold: Firstly, a series of attacks on white farmers took place, in which weapons were often seized. Secondly, there was a relatively small number of armed attacks on public places in urban areas, usually but not always frequented by white civilians.

463 APLA attacks increased during 1993, after APLA's chief commander Sabelo Phama declared 1993 'The Year of the Great Storm'. On 5 and 7 April 1993 Phama appeared in an interview with the SABC television declaring that "he would aim his guns at children - to hurt whites where it hurts most". By that time, APLA operatives had struck at the King William's Town Golf Club on 28 November 1992, killing four people. Phama confirmed he had sanctioned the attack. Further attacks

followed after Phama's interview. These included the attack on the Highgate Hotel in East London on 1 May 1993, on St James Church in Kenilworth on 25 July 1993 and Heidelberg Tavern in Observatory on 31 December 1993.

464 The PAC has stated in its submission that, whereas APLA strategy in the 1980s had been to target the security structures, "a new strategy arose in the 1990's where civilians within the white community were attacked". Because details of operations could not be prepared by their headquarters in Dar-es-Salaam, target selection was left to the local commanders. While internally trained cadres were in a position to carry out better reconnaissance and thus avert detection and arrest, they faced the disadvantage of not having received the kind of political literacy that was standard in the camps. The leadership accepted full responsibility for acts which may have occurred as a result of errors made by these operatives, although no examples of such errors were named. Many PAC members convicted for such acts applied for amnesty.

465 The claim that the attacks on white civilians were not part of the PAC's strategy must be contrasted with the statement of the APLA command as expressed in the submission to the armed forces hearing of the Commission. This division over military strategy was reflected in a divided approach to the question of negotiations so that when, in January 1994, the PAC leadership agreed to suspend armed actions and enter negotiations, some of the APLA leadership were not in favour of the decision.

#### ***APLA attacks of 1992 – 1994 period in which civilians were killed***

466 Owing to the number and significance of violations perpetrated on urban 'soft' targets, they are presented here according to the region where they took place.

467 In the Western Cape, two of the attacks on white civilians which involved the most casualties took place in Cape Town in 1993:

468 An attack took place on the Heidelberg Tavern in Observatory, Cape Town on 30 December 1993. Civilians in the pub were sprayed with gunfire; four died and three were injured. Those who died were Ms Rolande Lucielle Palm [CT00415/SOU], Ms Bernadette Langford [CT03041/SOU], Ms Lindy-Anne Fourie [CT02703/SOU] and Mr Joss Cerqueira. The injured were Mr Michael Jacob January [CT00451/KZN], Mr Dave Deglon [CT03045/SOU], Mr Benjamin Braude [CT00415/SOU] and Mr Quentin Cornelius [JB00323/01GTSOW].

469 The Amnesty applications for this incident were Mr Luyanda Gqomfa [AM0949/96], Mr Zola Mabala [AM5931/97] and Mr Vuyisile Madasi [AM6077/97]. After their testimony was heard in a public hearing, they were granted amnesty on 15 July 1998.

470 The main thrust of their testimony was that they acted on instructions from APLA High Command in executing the Heidelberg Tavern killings. Gqomfa explained at the hearings that the order to attack was given to him by Mr Sichumiso Nonxuba and that he was told that the tavern was a place frequented by members of the security forces. Nonxuba died in a car accident in May 1997. The following quote from Gqomfa's *affidavit* accompanied his application and summarises the testimony of all three:

*As far as I was concerned, the attacks was to get the land back from the whites who had taken it away from the African people through violent means. For us and for me in APLA, the only way to get our land back, and to liberate the black masses was through the use of force.*

471 The investigation into this attack and the amnesty hearing were complicated by allegations that Commissioner Dumisa Ntsebeza, head of the Commission's Investigation Unit, was implicated in the attack in that his car was used by the APLA members involved. The person who made the allegations, Bernard Sibaya, at first pointed Ntsebeza out in public; he later confessed that he had been blackmailed by the police into naming Ntsebeza.

472 Another attack took place on the congregation of St James Church in Kenilworth, Cape Town on 25 July 1993. In this attack, eleven people were killed and fifty-eight wounded. The attackers fired machine guns and threw two hand grenades at a congregation of about one thousand people. The attack lasted for about thirty seconds and the attackers escaped in a waiting car which was found abandoned at Ottery in Cape Town three days later. Apparently the car had been hijacked from its owner on the day of the attack.

473 Those killed were Mr Guy Javens [CT00620/SOU], Ms Denise Gordon [CT01124/SOU], Ms Marita Ackerman [CT02922/SOU], Mr Richard O'Kill [CT03029/SOU], Ms Myrtle Smith [CT03029/SOU], Mr Gerhard Harker, Mr Wesley Harker, Mr Oleg Karamjin, Mr Andrey Kayl, Mr Valuev Pavel and Mr Valentin Varaska. The last four were Russian sailors. The Commission also received statements from a number of people who were injured in the attack.

474 Those who applied for amnesty for the attack were Mr Gcinikhaya Christopher Makoma [AM0164/96], Mr Mzukisi Bassie Mkhumbuzi [AM6140/97] and Mr Letlapa Raymond Mphahlele [AM3018/96].

475 At the amnesty hearing in Cape Town on 9 July 1997, Mkhumbuzi testified that, although the target had been selected by his unit leader Mr Sichumiso Nonxuba, he agreed that "whites were using churches to oppress blacks" and justified the attack on the grounds that whites  
*took our country using churches and bibles. We know and we have read from books that they are the ones who have taken the land from us.*

476 All the applicants contended that they had no prior knowledge of the operation and that target selection was left up to Nonxuba. This functional delineation was corroborated by a statement from the PAC delegation at the special hearing on the armed forces, in which they submitted that the actual targets were decided by local commanders and that the APLA forces who carried out these operations followed their directives.

477 The applicants were asked about how they perceived the political objective and whether they considered that selecting the church as a target would advance the struggle which the PAC was waging, even though they might not have actually selected the target themselves. In response to this question, the applicants emphasised the land issue and the imperative of wresting the land from whites, thus taking the struggle to the white areas.

478 The applicants were granted amnesty on 11 June 1998.

479 The King William's Town Golf Club was attacked with hand grenades and automatic rifles on the night of 28 November 1992, while a Christmas social function for a 'wine club' was in progress. Four people – Mr Ian MacDonald and Ms Rhoda MacDonald, Ms Gillian and Mr David Davies – were killed in the attack, and seventeen others injured. The Commission has received statements from Ms Beth Savage [EC0051/96ELN] and Mr Robert Stanford [EC0078/96KWT] were injured in the attack.

480 The people who applied for amnesty in this incident were Mr Thembelani Thandekile Xundu [AM3840/96], Mr Malusi Morrison [AM5953/97], Mr Thobela Mlambisa [AM7596/97] and Mr Lungisa Ntintili [AM6539/97].

481 The amnesty hearing was held in public between 7-10 April 1998 in East London. Xundu testified that:

*Letlapa was the director of operations and it is common sense and common knowledge that (he) should be the person who sanctions the operation if it is an APLA operation. In this case particularly he sanctioned the operation or he approved the operation, that is what I'm trying to say ... So we had the full mandate that was given to us by the PAC, given to us by the APLA command structures.*

482 According to evidence heard, there were two functions organised at the Golf Club on the day of the attack. Earlier in the day, there was a gathering which was attended by a Mr Radue who, according to the testimony of Xundu, was a member of the NP. This gathering was to be targeted because it was to be attended by security force personnel. In the early evening, there was a Wine Tasting Club which included "senior citizens", the gathering that became the target for the APLA attack. Xundu, who gave the main evidence at the hearings, said they "took it as one occasion". The Amnesty Committee had not made a finding at the time of reporting.

483 In an armed APLA attack at the Highgate Hotel in East London on 1 May 1993, five people were killed and a number of others injured. The Commission received statements regarding those who were killed: Mr Deric John Whitfield [EC0101/96ELN] and Mr Boyce Michael Wheeler [EC0729/96ELN], and from those who were injured: Mr Karl Weber [EC0035/96ELN], Ms Doreen Rousseau [EC0052/96ELN], Mr Neville Beling [EC0167/96ELN] and Mr Nkosinathi Alfred Gontshi [EC0196/96ELN].

484 Members of APLA who applied for amnesty were Mr Augustine Zukile Mbambo [AM2892/96] and Mr Dumisani Ncamazana [AM2891/96]. The applicants were also involved in other APLA attacks – the attack on the Baha'i Faith Mission and the Da Gama bus incident. The Commission initially rejected the applications on the grounds that they were not political, but the cases were reconsidered after the applicants made second submissions, forwarding new evidence to the effect that the Highgate incident was politically motivated.

485 In the main evidence, Mbambo testified that, on the day of the attack, they had intended to attack East London station bar.

*but when we passed the Highgate Hotel, we noted that the Highgate Hotel was full, there was something like a disco on. We then decided that it is not*

*necessary for us to go to the station bar, East London, let us rather make a U-turn at the railway station at Cambridge, and come back, hit the Highgate Hotel.*

486 He also said that the Highgate Hotel was given to them as a target. The Amnesty Committee had not made a finding at the time of reporting.

487 On 22 March 1993, APLA operatives attacked the Yellowwoods Hotel, Fort Beaufort, in which a student Mr Johan Jerling [EC2359/97ALB] was killed. For this incident, the Commission received amnesty applications from Mr Vuysisile Madasi [AM6077/97], who also applied for amnesty for the attack at the Heidelberg Tavern; Mr Lungisa Ntintili [AM6539/97] who also applied for the attack at the King William's Town Golf Club and Mr Nkopane Diaho-Moneng [AM6427/97].

488 The public hearings were held on 14 April 1998 in East London. Amnesty applicant and commander of the unit for this operation, Madasi, testified that the hotel had been selected as a target because it was patronised by members of the security forces, particularly on Friday and Saturday nights. He testified that the:

*people that chose the target are members of the high command of APLA. We were voluntary soldiers, we had to make sure that we carry out the operation, that was on our shoulders. We would go to a target place that had already been selected by the APLA High Command.*

489 He claimed that he and other members of his unit had received orders from APLA commander Letlapa Mphahlele. After the attack, they returned to Umtata to report to Mphahlele. The Amnesty Committee had not made a finding at the time of reporting.

490 On the evening of 14 February 1994, APLA operatives attacked with firearms the Crazy Beat Disco at Newcastle. One person was killed and several others were injured.

491 The Commission received amnesty applications for the incident from Mr Bongani Malevu [AM 0293/96], Mr Andile Shiceka [AM5939/97] and Mr Falibango Tanda [AM5784/97]. The applicants revealed at the hearings that the targets were initially identified as a restaurant and the Crazy Beat Disco, but plans to attack the restaurant were abandoned because of the potential for casualties amongst African people who happened to be in the vicinity of the restaurant. The disco was selected because it was frequented by whites. However, Malevu contends

that the decision was not based on racism. Amnesty was granted to the applicants on 3 June 1998.

492 On 30 November 1993, a limpet mine exploded in a bus in Durban resulting in the death of one person. Eleven people were injured. One of the injured was Adrie Coetzee [KZN/NN/055/DN]. The amnesty applicants for the incident are Mr Mfundzo Peter Seyisi [AM6263/97] and Mr Ndoda Mgengo [AM6386/97]. The amnesty hearing had not yet been held at the time of reporting.

493 On 25 August 1993, American Fulbright scholar Amy Elizabeth Biehl (26) drove into Gugulethu to drop off some fellow students. Youths stoned the car, injuring Ms Biehl and bringing the car to a stop. She and the other occupants of the car fled, with a group in pursuit continuing to stone her. Several PASO members returning from a PASO meeting in Langa were also at the scene and played a leading role in the actual killing. A stab wound to the chest was fatal. In its submission to the Commission on 20 August 1996, the PAC expressed its regrets for the killing and sent condolences to the Biehl family. "They [PASO] wrongly targeted and killed Amy Biehl ... But misguided as the deed was, we support the amnesty applications of all those convicted and sentenced for the offence."

#### ***Attacks on white farmers (rural 'soft targets')***

494 Part of the strategy behind the PAC's 'Year of the Great Storm' of 1993 was to drive white farmers off the land so that it could be reclaimed by the African people. A number of attacks were carried out on farms in this period, claiming the lives of many civilians died; weapons and vehicles were stolen. Attacks centred on the Orange Free State, the Eastern Cape and in areas bordering on the Transkei.

495 The Commission heard at various hearings that civilians died and weapons and vehicles were stolen in a number of attacks carried out on farms as part of 'Operation Great Storm' during this period (see also Volume Three).

496 Mr Letlapa Mphahlele, APLA Director of Operations, explained at a media conference during the amnesty hearings in Bloemfontein on 28 August 1997 that "there was no regret and no apology offered" for the lives lost during 'Operation Great Storm' in 1993. He acknowledged his involvement in the planning and execution of the operation. He said that his "proudest moment was seeing whites dying in the killing fields" and alleged that the Commission's amnesty committee was a "farce and a sham" which sought to "perpetuate white supremacy".

WHILE THE PAC PROCLAIMED A MILITARY STRATEGY OF A PROTRACTED PEOPLE'S WAR WHICH INVOLVED THE INFILTRATION OF GUERRILLAS INTO THE COUNTRY TO CONDUCT RURAL GUERRILLA WARFARE AND ATTACKS IN THE TOWNSHIPS, THE PRIMARY TARGET OF ITS OPERATIONS WERE CIVILIANS. THIS WAS ESPECIALLY SO AFTER 1990 WHEN, IN TERMS OF THE 'YEAR OF THE GREAT STORM' CAMPAIGN, THE PAC/APLA TARGETED WHITES AT RANDOM AND WHITE FARMERS IN PARTICULAR.

THE COMMISSION FINDS THAT THE TARGETING OF CIVILIANS FOR KILLING WAS NOT ONLY A GROSS VIOLATION OF HUMAN RIGHTS OF THOSE AFFECTED BUT A VIOLATION OF INTERNAL HUMANITARIAN LAW. THE COMMISSION NOTES BUT REJECTS THE PAC'S EXPLANATION THAT ITS KILLING OF WHITE FARMERS CONSTITUTED ACTS OF WAR FOR WHICH IT HAS NO REGRETS AND APOLOGIES. TO THE CONTRARY, THE COMMISSION FINDS PAC ACTION DIRECTED TOWARDS BOTH CIVILIANS AND WHITES TO HAVE BEEN GROSS VIOLATIONS OF HUMAN RIGHTS FOR WHICH THE PAC AND APLA LEADERSHIP ARE HELD TO BE MORALLY AND POLITICALLY RESPONSIBLE AND ACCOUNTABLE.

## ■ **THE 'THIRD FORCE'**

497 This section focuses on the notion that a 'third force' or 'third force' elements were involved in perpetrating the violence of the early 1990s. The Commission wishes to restrict the understanding of this phenomenon to the post-1990 period and specifically defines its central characteristic as violence covertly undertaken or encouraged. In this respect, the Commission distinguishes such a phenomenon from the discussions held at the level of the State Security Council in 1985/6 in which the establishment of a third force was contemplated. While some participants may well have held sinister views as to what such a third force would constitute, it is clear from documentation available to the Commission that the overall intention at that time was to set up an above-board third leg of the security forces to deal specifically with unrest. With regard to the 1990s, the task of the Commission was to investigate whether security force or other operatives or agencies were involved in directing or encouraging violence, from within state security structures and/or in alliance with other groups.

498 Before discussing the existence of such a 'third force', a few preliminary points and arguments should be made.

499 In the first place, there was a strong tendency on the part of various security forces structures and operatives to see their task as one of continued war against the enemies of the National Party. Structures such as STRATCOM, whose primary purpose appears to have been to continue a propaganda war against the ANC, and the authorisation of operations such as *Project Echoes* (see below) that sought to undermine the credibility of the ANC, continued to

function. For many security force members, their existence undoubtedly confirmed that pronouncements of levelling the playing fields and normalising the political situation for free and fair elections represented the public face of NP policy, but at another, covert level, the war was to continue. In this regard, the Harms, Kahn and Goldstone Commissions and Steyn investigation were seen by many as public relations exercises rather than determined initiatives to root out 'dirty practices'. The long history of cover-ups and condonation of lying to such commissions merely reinforced this perception. Consequently, many operatives continued to conduct an all-out war against 'the enemy' and, as indicated earlier, elimination and the deadly use of force continued as a matter of routine.

- 500 When asked how he viewed the change in strategy between the 1980s and 1990s, a Military Intelligence (MI) member said: "In 1989 there was a strategy of counter-revolution. What I saw in 1990 after the FW announcement, we were all in Kosi Bay, we all thought: this is it, fuck the kaffirs, this is the time to sort them out. That was the general situation in the security apparatus."
- 501 Similarly, some sections of the liberation movements, in particular its rank and file, continued waging war against the security forces and the IFP. While negotiations had always formed part of ANC strategy, for most members of the ANC and other liberation movements, this simply meant negotiation for the transfer of power. When negotiation assumed a completely different form, winning at the polls became inextricably linked with the often violent contest for support and power at a local level. The existence of Operation Vula, which became public with the detentions of Mr Mac Maharaj and others, the continued training of MK members in foreign countries, and above all the arming of SDUs reinforced perceptions that continued offensive strategies were a legitimate part of the ANC negotiation strategy, notwithstanding the public position of the ANC. The suspension of the armed struggle by the ANC was greeted with dismay by many rank and file members, occurring as it did in conditions of near civil war in many communities, particularly the PWV area and Natal.
- 502 In this context, the establishment of SDUs – although created to protect communities against attack in the face of a complete lack of confidence in the security forces – inevitably led to wide-scale abuse and, in many instances, operated not just defensively but offensively as well. This, as has been suggested, was exacerbated by the lack of clear lines of control and accountability. Further, SDU members were given very little training, either military or political. This made it almost inevitable that the effect of arming such groups would lead to violence –particularly in

areas that had already experienced violent conflict. In many respects, the training of SDU members was little different from the training of special constables in the 1980s, with similar consequences. While the IFP was clearly the main target of such offensive actions, the period also saw an increasing incidence of attacks on particularly black policemen. This in turn resulted in increased polarisation and reinforced security force perceptions that they continued to be engaged in a war.

503 Whether or not forces were fomenting conflict or violence in communities and among groups, one of the enduring legacies of the previous years was a high degree of political intolerance on all sides. While the creation of divisions had been central to the experience of colonial rule, the entire policy of apartheid was predicated on the maintenance of ethnic and other divisions. The policy of contra-mobilisation during the 1980s intensified this ethnic, generational, inter- and intra-organisational conflict. Thus, for example, the deepening of divisions between Inkatha and the UDF had been central to state policy from the mid-1980s. The experience of violent struggle during the 1980s and conditions of near siege in many communities during the emergency years had left a deep suspicion of those seen to be allies of state. These conditions resulted in many situations in open conflict, and at times became self-generating. In such situations, infiltration by the security forces made structures particularly vulnerable to those pursuing double agendas or acting as *agents provocateurs*. The examples of Mr Sifiso Nkabinde and Mr Michael Phama dealt with above are powerful examples.

504 On all sides of the divide, the rapidly changing political scenario also led to the development of groups of disaffected operatives. Again, the military intelligence operative quoted above commented:

*At the time of the FW purge of the National Party, he took the foundation of the securocrats from beneath their feet. The securocrats felt insecure, they still deemed (even until today) the ANC was the enemy ... After the announcement in 1990 and the securocrats were caught unaware, they sat with the question, where to go now. Then individual commanders developed individual strategies ... The last resort lay with the far right. By train violence, taxi wars, Boipatong, etc, can't we create anarchy?*

505 In such instances, security force and ex-security force members sometimes connected with elements of the right-wing who displayed increasing determination, at best, to prevent the transition or, at the very least, to strengthen the bargaining position of those attempting to negotiate the establishment of a *volkstaat*.

506 The NP itself was sharply divided about the appropriate strategic direction and different agendas were pursued by different factions. Thus, until the signing of the Record of Understanding in 1992, the principal negotiators, under the leadership of Minister Gerrit Viljoen, closely followed a direction that was welded to the notion of an IFP/NP alliance. Others, if only tacitly, remained closer to the kind of security force perspective outlined above.

507 A further factor in understanding the violence of the 1990s is the extent to which covert action, the existence of large amounts of secret funds and a climate of unaccountability led to an increasingly criminalised set of networks between members and ex-members of the security forces. In such cases, considerable financial interests were clearly furthered by a destabilised political situation. There is considerable evidence of ex- and serving security force members engaged in, for example, gun-running, as well as a range of other criminal activities. To some degree, the same pattern of criminalisation and involvement in gun-running is evident on the liberation movement side. Thus, for example, the Commission received amnesty applications from members of APLA's 'Repo Unit' who applied for what appear to be largely criminal acts, as well as applications from SDU members involved in criminal activity. Such activity was partly a way of arming SDUs or APLA units, but there is evidence to suggest that, in some areas, criminal elements took over or got involved in SDUs. It is also clear that some impoverished disillusioned ex-guerrillas became involved in criminal networks.

508 Finally, the intensity and pace of the negotiations and the transition also resulted in rapidly shifting alliances between political parties – such as the IFP and the NP and later between the IFP and various right-wing groups. This made lines of command and accountability difficult to discern and identify.

509 These preliminary points need to be borne in mind when considering the evidence relating to a supposed 'third force'.

### **Evidence of security force involvement in 'third force' activities**

510 As indicated above, there was a long tradition of waging an all out war on the ANC, and in particular MK, that did not cease in 1990. Three related factors about the way in which this war was waged have a bearing on the issue of security force involvement in third force activities: firstly, increasing resort to unlawful methods by the security forces; secondly, a consistent attempt to make use of other parties or surrogate forces; and thirdly the use of covert structures. While this was especially true of the mid- to late 1980s, the origins of approach lay earlier.

### ***Unlawful methods***

511 A number of examples can be given about the way in which significant sections of the security forces, with sanction from high up the chain of command, increasingly engaged in actions that involved transgressions of the law:

512 As indicated elsewhere, torture was widely and routinely used by the Security Branch from the early 1960s. That this practice was condoned is evident from the promotion of known torturers, the alleged involvement of ranking officers – including possibly two commissioners of police and a several heads of the Security Branch – and the ongoing refusal by responsible ministers or the cabinet to intervene, despite ongoing public pressure. This laid the basis for a culture of impunity among Security Branch officers.

513 Aside from torture, the security forces increasingly used unlawful methods in their intelligence-collecting process. An early example of this was provided by Major Craig Williamson, who was recruited by the ANC in the mid-1970s and set up an ANC cell consisting entirely of security police who were responsible for detonating pamphlet bombs.

**Mr Williamson:** *I never actually carried out any pamphlet bombs. I ordered them ... Basically, if the ANC told me to put up a pamphlet bomb, I'd say, OK I will do it, and three weeks later it happened and the ANC was very happy with them.*

**Commission member:** *Can you remember more or less when that was?*

**Mr Williamson:** *That was in 1976/77 ...*

**Commission member:** *So in that ANC cell that you set up after your trip, there was some genuine...?*

**Mr Williamson:** *No.*

**Commission member:** *You were all agents?*

**Mr Williamson:** *All agents, but it did not really exist. That cell was the Security Branch. I did not go out and recruit real ... I mean non-security force members to that; that was all security force. There were obviously people whom the ANC and other people met whom they did not know were security force members, but they were all security force members. The people who went to London to get detonators from Stephanie Kemp, pick up suitcases full of the propaganda material, they were police officers ... People who were arrested by the flying squad after setting off a pamphlet bomb*

*were police officers. On one occasion the flying squad managed to detect and arrest [people who placed a] pamphlet bomb in the library gardens, and the people who were arrested were police officers which caused some ... They had to recruit the staff, the flying squad guys into the Security Branch to keep them quiet.'*

514 Williamson was handled by General Johan Coetzee, later commissioner of police, who himself instructed other Security Branch members to investigate the pamphlet bombs. This *modus operandi* was developed with deadly effect during the 1980s and led to entrapment operations – in which security force personnel recruited, trained and, in some instances, armed activists before killing them – as well as arson and sabotage operations conducted by the Security Branch in order to boost the credibility of agents.

515 The killing of political opponents both inside and outside of South Africa, as was discussed earlier, was widely carried out by the mid-1980s, frequently with the authorisation or involvement of senior Security Branch personnel. Further, and importantly, it is clear from SSC documents that such actions were widely considered to be in line with state policy.

516 A further area of illegality concerned various STRATCOM projects and operations, again carried out with the knowledge of both senior security force personnel and politicians. Former Minister Vlok himself conceded in his evidence to the Commission:

*It cannot be denied that certain STRATCOM conduct, or the consequences thereof in certain circumstances, could have been interpreted as unlawful or illegal. In this way I could have been part in an unconscious way of the taking of decisions which led to illegal conduct ... I'd like to say that I included that under STRATCOM conduct and operations which could have led to illegal actions ... It was illegal and unlawful.'*

517 The security forces were widely involved in acts of arson and sabotage, not simply as part of credibility operations as suggested above, but as part of a policy of meeting violence with violence. The involvement of the highest political authority in the Khotso House bombing is an eloquent example of the extent to which breaking the law was seen to be both legitimate and authorised.

518 The above examples of sanctioned and, in some cases, authorised illegal activities were central in establishing a view, particularly amongst the police, that the

security forces could use all measures at their disposal, even if they transgressed the law in so doing. This view was underpinned by the notion that the security forces were engaged in a counter-revolutionary war and that in war the same civilian norms and laws do not apply.

519 The wide-ranging indemnity provisions of the Criminal Procedure Act were extended even further during the state of emergency in the mid-1980s, giving the security forces greater license. Moreover, the security forces were repeatedly involved in a long line of cover-ups of illegal or unlawful activity. This is evident, for example, in evidence given to inquests and trials in relation to torture and killings which again, in cases such as that of Stanza Bopape, reached the highest echelons of the police. There is no evidence to suggest that this practice was halted during the 1990s. The Harms Commission is a significant example of this: not only were witnesses instructed by their seniors to lie, but the Harms Commission failed to deter them from embarking on further operations.

520 The March 1994 Goldstone report on the criminal activities of the SAP, KZP and IFP provides further compelling evidence of senior police officers attempting to subvert a government-appointed commission of enquiry. According to the report, senior members of the SAP repeatedly approached police officers associated with the Goldstone Commission during the course of the investigation, in ways that could only be construed as obstructive. Further, once the police became aware of Goldstone's interest in false passports, persons in possession of such passports were requested to bring them in for destruction. Similarly, Goldstone investigators learnt that Major General Engelbrecht, head of C section, had ordered the destruction of all documentation relating to the SAP's involvement with Inkatha.

521 The fact that such cover-ups involved senior officers and continued well into the 1990s reflects the extent to which such groups saw them as an essential, but intensified, extension of the *modus operandi* developed in previous periods. In such a context, the impression must have been conveyed to more junior members of such structures that, despite negotiations, they were still at war and could make use of whatever means they had at their disposal, if not to rout, then at least to weaken 'the enemy.' The continued practice, in SADF operational commands, of referring to the ANC as 'the enemy' only underlines this point.

### ***Surrogate forces***

522 Evidence has shown that, through contra-mobilisation, the notion of 'strategic communication' (STRATCOM) or 'communications operations' (COMOPS) was extended to include the establishment or covert support of groups opposed to the mass movements and the ANC. The covert nature of such support and the evidence that such individuals and groups were directly involved in violence takes this strategy way beyond legitimate political mobilisation, representing a direct intervention into communities. As with elimination, this policy is reflected in documents of the SSC where there is frequent reference to the '*uitbuiting*' (exploitation) of divisions within organisations and communities.

523 Of particular relevance in the 1990s is a previous history of encouraging divisions between Inkatha and the UDF. What is important to note is that this covert policy of encouraging and fomenting such divisions predates the outbreak of violent conflict in Natal and that, when the conflict assumed violent proportions, this was simply noted and no attempt was made to change the overall strategy. This indicates, at the very least, that this was regarded as acceptable, possibly even desirable. *Operation Marion* and the Caprivi training must thus be seen in the context of this overall State Security Council policy. A similar strategy was reflected in *Operation Katzen* and support for vigilante groups. Covert support for anti-UDF/ANC groupings was well established by the 1990 and was seen as legitimate and authorised. This support led to the development of links between individual security force operatives and conservative individuals at a local level, providing a basis for ongoing destabilisation on the ground. The connection between this strategy and the violence in the 1990s is obvious. Indeed, support for Inkatha continued into the 1990s. It is thus not surprising that security force members believed that it was legitimate to provide support, including arms, to Inkatha, or to seek to protect and foster IFP-linked forces when policing violence-torn communities.

### ***Covert structures and activities***

524 It is also important to stress that the kind of activity outlined above was largely conducted by covert structures. The establishment of covert structures – covert precisely in order to obscure the link to the state – is central to this period. In the early years, the development of covert structures centred largely around two main arenas – propaganda (as is evidenced by the 'Info' or 'Muldergate' scandal) and sanctions busting.

525 Indeed, the 1980s saw an extensive proliferation of covert structures and front companies specifically designed to obscure links to the state. Thus, for example, the entire CCB operation was run via front companies, employing operatives who formally resigned from the SADF and SAP. A significant number of operatives remained in the ‘security business’ by establishing security companies, a cover that legitimately allowed them to have arms and to employ people with military or police training.

526 This process of ‘privatisation of the security forces’ relied to a large degree on a decentralisation of lines of command and control. Thus, on the one hand, the state increasingly emphasised the importance of centralisation and co-ordination – indeed, the notion of a ‘Total Strategy’ increasingly drew non-security departments and personnel into the ambit of tightly co-ordinated security policy. On the other hand, and in seeming contradiction, the increasing reliance on covert structures and methods demanded an increasing separation and decentralisation from such co-ordinated structures. In fact, the two processes were linked: joint structures frequently included non-security force members, necessitating a set of structures where more sensitive decisions and operations could be taken and planned. The central requirement of the covert structures was that the link to the state should at all times be untraceable. This meant operating in tight, but decentralised ways, and gave operatives a significant degree of discretion.

527 It needs also to be noted that there was a tendency in certain arenas for covert structures and operations to make use of criminal networks. Thus, for example, criminal elements were used as go-betweens, as intelligence sources or as operatives in sanctions-busting enterprises; in the smuggling of ivory used to finance UNITA; in procuring supplies and substances for the Chemical and Biological Warfare programme (described elsewhere in this volume); and by the CCB both in the collection of intelligence and in the execution of operations. The recruitment of people like Mr Ferdi Barnard, still in the employ of the SADF following the revelations of the Harms Commission, is an eloquent example of this practice.

528 The development of covert structures and practices also needs to be seen in the context of the increasing politicisation of South African intelligence structures in the mandate period. Each development is marked by a close relationship between security or intelligence agencies and politicians – the relationship of Mr Hendrik van den Bergh, and thus the Security Branch and BOSS, to Prime Minister BJ Vorster; the relationship of successive chiefs of staff intelligence to both Minister

Malan and President PW Botha; and the link between the NIS and President de Klerk. This had two effects. First, it had a tendency to lead to the politicisation of intelligence, with the effect that political agendas and demands skewed intelligence assessments. As a former deputy chief of staff intelligence put it: "There was an increasing tendency to tell the politicians what they wanted to hear." Second, it led, under each regime, to the development of a corps of intelligence and other operatives whose immense power was both derived from and dependent on senior politicians, and who were charged with the responsibility of protecting the state at all costs, even if this included unlawful action. In this context, the notion of 'plausible deniability' combined with a culture of covering up illegal actions proved a lethal cocktail and gave certain sectors of the security forces *carte blanche* to engage in operations that were clearly dubious.

529 While covert companies and operations at an official level ran more or less independently of each other, they were bound together by a network of operatives, many of whom had shared significant operational experience over a lengthy period of time. One of the important arenas in which such networks developed was among those who had spent time engaged in operations in the Western Front (Namibia and Angola), and, for many, Rhodesia (the Eastern Front). Throughout the 1980s, key military and Security Branch positions inside South Africa were occupied by personnel who had served time on the Western Front. For example, by the end of the 1980s, staff in key posts in the SADF such as chief of the SADF (JJ Geldenhuys), chief of the army (Kat Liebenberg), officer commanding Special Forces (Joep Joubert then Eddie Webb), chief of staff intelligence and many of the officers commanding of the territorial commands had emerged from the war in Namibia/Angola. Similarly, ranking Security Branch officers such as head of C section (Willem Schoon), officers commanding divisional Security Branch offices (Cronjé – Northern Transvaal) as well as all virtually every commander of Vlakplaas had spent time in Rhodesia and/or then South West Africa.

530 Such networks frequently drew police and military together and involved both high-ranking and lower-ranking operatives. For example, Willem Schoon, head of C section of the Security Branch, had spent time in Namibia, where he got to know Joep Joubert who, by the mid-1980s was head of Special Forces. Joubert was responsible in the mid-1980s for drafting a plan whereby Special Force operatives were seconded to key Security Branch offices. A central component of this plan was the killing of political opponents.

531 The Steyn staff report notes that new recruits were drawn into such networks, and those who conformed tended to be promoted – creating a self-generating and self-perpetuating cycle. This set of networks, deepened by joint involvement in covert operations that increasingly involved unlawful activity and involving very high-ranking personnel, increasingly led to the development of what can be termed an ‘unofficial official command structure’. An example of such a structure is given in a memo by the surgeon general in relation to the Chemical and Biological Warfare programme. He refers to the existence of two command structures – the official one and ‘an informal official system’ that operated directly from an authorising structure via Basson to groups executing decisions. From a reading of amnesty applications, section 29 enquiries, interviews and intelligence reports, it is clear that such ‘informal official’ chains of command existed more broadly, and were central to security strategy in the mid- to late 1980s. Further, as the staff report indicates, dubious and illegal activities had been so successfully woven into authorised and official operations that it was difficult to distinguish between the two, or at what level authorisation began and ended.

532 The placing and promotion of personnel linked into such structures led the Commission to believe that those in charge of the security forces were well aware of their existence and effectiveness. Again, the Steyn staff report notes that those in command were either personally involved or, if they were exercising effective command, knew what their operatives were involved in. Given the seniority of a number of perpetrators, the Commission rejects the argument put forward by the NP that violations were committed by a handful of rogue elements or ‘bad apples.’ The fact that some incidents involved the commanding officers of the security forces and appeared to lead, at least in the Khotso House bombings, to cabinet and the State President himself, makes such an explanation unacceptable.

### ***Namibian elections***

533 For many, the acceptance of UN Resolution 435 and the ensuing elections provided a dry run for the elections in South Africa. All efforts were thrown into reducing the SWAPO vote – with considerable success given the time frame. To this purpose, some R180 million was made available for operations *Victor* and *Agree*. These operations included providing extensive infrastructure for the DTA, the South African government’s alternative to SWAPO, conducting an extensive disinformation campaign, and embarking on campaigns to intimidate voters, disrupt meetings and so forth. It seems that some of this money also went towards the funding of a right-wing group, *Aksie Kontra 435*, involving people such as Mr Horst

Klenz, Mr Leonard Veenendaal and Mr Darryl Stopforth, who undertook sabotage actions. According to CCB intelligence officer Chris Nel, the entire resource base of the CCB was used in Namibia. CCB operatives from all regions were deployed in Namibia and were offered production bonuses. Aside from the Lubowski assassination, the Commission is aware of at least two other assassination plans – that of Mr Daniel Tjongarero and Ms Gwen Lister.

534 With the elections over, most of these operatives returned to South Africa together with the rest of the South African military machine. The SADF representative to the Co-ordinating Intelligence Committee (KIK) raised the need for the KIK to develop a similar plan for South Africa's transition. Moreover, throughout the period of the war and following South Africa's final withdrawal from Namibia, at no stage did the security forces engage in any processes of demobilisation and re-integration of its members into a non-war situation. To all intents and purposes, then, operatives and soldiers moved from one theatre of war to another.

535 The Namibian strategy had its roots in an earlier high-level discussion of security force generals, intelligence personnel and SSC functionaries in October 1985 regarding the question of a settlement with the ANC. While there were dissenting views, the general thrust was that some form of settlement was unavoidable in the long term, but that every effort should be made to weaken the ANC and destroy its revolutionary potential. In the words of General Groenewald, "*Jy kan dus slegs uit 'n posisie van krag onderhandel. Onderhandel ons met die ANC met die doel om hom te elimineer, is dit aanvaarbaar. Onderhandel ons met die doel om hom te akkommodeer, is dit onaanvaarbaar.*" (You can thus only negotiate from a position of power. If we negotiate with the ANC with the purpose of eliminating it, that is acceptable. If we negotiate with the purpose of accommodating it, that is unacceptable.) There is nothing to indicate that this view ever changed. The handling of the Namibian elections would tend to indicate that this remained the dominant perspective.

537 By the 1990s, then, a clear pattern of security force conduct had emerged that crossed the boundaries of legality and was condoned and in some instances encouraged as part of state policy. A network of security force operatives, bound by blood and secrecy, had emerged, with informal channels of communication and in possession of, or with access to, material resources and weaponry. While the new De Klerk government significantly dismantled many of the formal securocrat structures, little obvious attempt was made to dismantle these networks or to change the mindset of operatives intent on continuing an all-out war on the ANC

and its allies. Indeed, where efforts were directed at uncovering such networks – as with the establishment of the Harms Commission – security force personnel were instructed by their seniors to lie, sending a clear signal that these were simply public relations initiatives and that they were not intended to change the status quo. The fact that Vlakplaas personnel continued with unlawful activities at the very time that the Harms Commission was sitting is clear testimony to this. Given this background, it is unsurprising that evidence should emerge of security force involvement in the violence and destabilisation of the 1990s.

537 Clear evidence of security force involvement in the following issues has been confirmed:

- The provision of weapons and training to the IFP by members of the security forces, and thus by implication, involvement in the violence in the PWV and KwaZulu/Natal regions. It is notable that this continued after the exposure of government financial support to the IFP.
- The cover-up after the arrest of Mr Themba Khoza with weapons on the scene of the Sebokeng massacre and thus, by implication, involvement in the massacre itself.
- The involvement by MI operatives and structures in the destabilisation of the homelands, including the development of a plan to invade Transkei.
- A official plan by MI to abduct and/or assassinate Mr Chris Hani and Mr Bantu Holomisa in Transkei.
- The existence of SAP hit squads that continued to be engaged in killings.
- Continued efforts to conduct disinformation campaigns against the liberation movements generally and against particular individuals. Examples include *Project Echoes*, a South African army intelligence (GS2) project which sought to generate disinformation about MK, and a strategic communications project which targeted Ms Winnie Mandela.
- The running of high-level sources such as Mr Sifiso Nkabinde and Mr David Ntombela, who were deeply implicated in violence in the Richmond area.

538 In addition, some evidence exists regarding:

- The involvement of security force operatives in train violence.
- Involvement of security forces in right-wing agendas and structures, possibly including the establishment of some right-wing groupings. While the security

forces indicate that this was for the purposes of intelligence-gathering, the case of Mr Leonard Veenendaal shows a continued and disturbing blurring of intelligence and operational lines.

- The involvement of Mr Prince Gobinca as a key player in several sites of violence in the western and eastern Cape. This includes his involvement in the Western Cape United Squatters Association (WECUSA) and his involvement in deploying an ANC SDU in violence locally as well as for the ADM in Ciskei. The Commission found Mr Gobinca to have links with both MI and the Security Branch, and found extensive involvement of MI in the ADM.
- The existence of alliances between certain security force operatives, the right wing and sectors of the IFP who clearly believed they were arming and training people for a full-scale war.

539 It should perhaps be noted that, in the Port Elizabeth area, the security forces seem broadly to have accepted the move towards a negotiated transition and, as is borne out by official police documentation, appear to have developed a working relationship with local ANC leaders. It is noteworthy that, in the one area where such a working relationship developed, 'third force' violence did not manifest itself. The fact that the Port Elizabeth area had previously always been at the cutting edge of conflict between security forces and resistance movements merely underlines this point.

540 Beyond the specific violations and arenas of violence, a major issue the Commission was unable to determine was the degree to which the involvement of security force operations was part of government strategy at the time. As indicated at the beginning of this chapter, the position of the ANC and a number of other structures was that the NP was pursuing a twin-track strategy of publicly negotiating while continuing to wage war against the ANC.

541 The position of the NP, on the other hand, was that President de Klerk and his government did everything in their power to put an end to such violence and that, at every point that allegations were made, an attempt was made to investigate them. In this regard, the Harms Commission (1990), the Kahn Commission, the Goldstone Commission (1990) and the Steyn investigation (1992) are seen to represent a willingness to investigate such allegations.

542 While the Commission commends such efforts on the part of former President De Klerk, a number of factors continue to cast doubt on the integrity of such efforts. These include:

- a Appointment of personnel: In 1989, Tim McNally, the Attorney-General of the OFS was appointed to investigate the allegations made by Almond Nofemela, Dirk Coetze and David Tshikilange that a 'death squad' existed at Vlakplaas. Despite having concluded that there was no substance to these allegations, McNally was appointed as counsel for the Harms Commission, whose mandate was to determine precisely what McNally had already dismissed. Further, his investigative team was comprised of police officers. The Commission is of the opinion that these appointments were inappropriate.

Similarly, with regard to the Steyn investigation, while the Commission acknowledges former President de Klerk's reasons for believing that an SADF appointee would have better access to and knowledge of the area he was investigating, to all intents and purposes this appointment meant that the SADF was investigating itself. The Commission is of the belief that, at the very least, independent and non-security force personnel should have been appointed alongside General Steyn in the interests of transparency.

- b Limited mandates: All the above commissions and investigations were severely hampered by the limited mandate they were given. Despite allegations of security force involvement in numerous cross-border assassinations, the mandate of the Harms Commission was confined to South Africa. Thus, although that Commission spent a substantial portion of its time investigating the activities of the CCB, considerable areas remained unscrutinised because the CCB consisted predominantly of external regions.

Similarly, Professor Ellison Kahn's terms of reference were so narrowly defined that he did not have the authority and mandate to initiate and/or engage in proactive investigation, but had to rely on the willingness of the security forces to furnish him with such reports. This meant that the security forces retained the discretion to determine which secret projects they should report on.

- c Follow-up action and investigations: The Commission notes that, while Judge Harms identified some security force personnel as having committed perjury in their evidence, no prosecutions followed.

The Commission has noted that former President de Klerk appeared to take no heed of General Steyn's repeated pleas for a co-ordinated and thorough-

going investigation of the allegations contained in the staff report. Moreover, despite the fact that significant allegations about the role of police structures such as Vlakplaas emerged during the course of General Steyn's investigation, there was no attempt to institute a broad-ranging enquiry. In the interest of conveying a public and determined intent to uproot dubious practices, the Commission submits that the decision to pass piecemeal allegations to the Attorney-General, the Office for Serious Economic Offences and the Goldstone Commission, was a short-sighted one. Mr de Clerk chose to appoint three generals who had themselves been seriously implicated in the Steyn investigation to make recommendations about follow-up action. This constituted a serious error of judgement.

543 The Commission thus finds that, commendable such initiatives may have been, they were largely ineffectual in rooting out the modus operandi and thinking that had developed during the previous period or, crucially, dismantling the associated 'informal official' networks. This criticism needs to be weighed against the rejoinder that President de Clerk's capacity to intervene in this arena was limited owing to the fact that he lacked a security force background, and that his actions were further constrained by the extraordinarily difficult task of ensuring that the security forces as a whole continued to support the transition, and did not turn towards a military rather than a political solution. Significant role-players continue to believe that the threat of a coup was a real one, and while the SADF as a whole never presented a threat and supported political and constitutional processes, individuals within it, and even sections of the security forces, may well have opted for a violent resolution. It needs to be noted that, while such a coup never materialised, the above confirms that there were indeed those who opted for violence.

544 Aside from the failure of such commissions to root out illegal and unauthorised activities, there are other worrying factors about the NP's response to the violence enveloping South Africa. While some security force involvement in dubious agendas of violence is apparent, and sufficient evidence of this was already within the public domain, at no stage did the NP concede that sectors of its security forces were out of its control. More than this, despite the fact that former President de Clerk was aware that his commissioner of police had been involved in illegal activity regarding the bombing of Khotso House, he continued to retain his position as the most senior policeman in the country. Similarly, despite allegations emerging from the Steyn investigation relating to the chief of the defence force and the chief of the army – the two most senior defence portfolios – former President de Clerk assigned them to the task of deciding what action should be taken against those implicated by the investigation.

545 While former President de Klerk may well have been constrained by the delicate balance within the security forces and a fear that firmer action could lead to a schism between the NP's negotiation agenda and disgruntled security force members, the Commission notes that no such constraint applied at the time that former President de Klerk made his submission to this Commission. De Klerk made no attempt to take the Commission into his confidence and to explain the very real dilemmas and difficulties that he faced at the time.

546 It was precisely this seeming unwillingness to take more significant action against individual security force members and structures that led to a public perception that the violence, if not part of an NP agenda, was in some way in its interest. The violence directed against black communities was seen to hurt the ANC the most, in that its support base began to lose confidence in its leadership's capacity to defend them. The Commission has no doubt that, had white communities experienced a fraction of what their black counterparts were experiencing, there would have been an infinitely more robust effort to bring an end to the violence. Thus, for example, in the Commission's hearing on the Seven Day War, a senior police official was asked: "If the violence on that scale had happened in a white area, you wouldn't have tolerated that at all, surely?" His response was: "During those times, more than likely no, we wouldn't".

547 There is also circumstantial evidence to suggest that the signing of the Record of Understanding led to a fall in the rate of random and anonymous attacks associated with 'third force' violence. It has been suggested that by this stage there was a real possibility that violence could become uncontrollable and lead to civil war. This was demonstrated most clearly by the events in Boipatong and the violent reaction to Mr de Klerk's attempt to visit the area. Further, the escalation of violence was beginning to threaten the NP itself as, locally and internationally, it was increasingly suggested that the government had lost control. According to this argument, the Record of Understanding is widely seen to have represented a significant shift in NP strategy, marked by an end to its close alliance with the IFP and an increasing convergence with ANC interests – at least in terms of effecting a transition to democracy. To some degree this argument is borne out by statistics, which demonstrate a shift in patterns of violence.

548 This shift in strategic direction also meant an increasing convergence between the right-wing/IFP and security force agenda. In this respect, there is some evidence that right-wing structures were funding by MI (see above), raising the suspicion that violence was encouraged by forces and/or structures of the state, but in a

way that could not be associated directly with the governing party. The Commission was unable to establish conclusively whether there is any substance to this.

549 Thus, while the involvement of security force individuals and structures in ‘third force’ violence was to some degree corroborated, lines of command and accountability, were not established. It is not clear whether senior security force personnel so involved represented their own, state or right-wing agendas. In a rapidly changing political situation with shifting alliances, is probable that there were several agendas involved.

550 At the same time, levels of political intolerance were extremely high and, indeed, little instigation was required to generate self-perpetuating cycles of violence.

551 In conclusion, the Commission did not make significant progress in uncovering the forces behind the violence in the 1990s. In view of the extent to which violence continued beyond 1994 and ongoing allegations about sinister forces, the Commission recommends further investigation in the following areas:

- A comprehensive review of intelligence practices. The former government’s encouragement of covert practices led to a serious lack of accountability. Moreover, the liberation movements themselves were forced to act in a clandestine way. In order to develop a new ethic among the security forces, it is imperative that the intelligence culture be subjected to intensive review.
- An investigation into front companies. The private security industry in particular needs intensive scrutiny, as security companies frequently provided a cover for security force operatives.

THE COMMISSION FINDS THAT, WHILE THERE IS LITTLE EVIDENCE OF A CENTRALLY DIRECTED, COHERENT OR FORMALLY CONSTITUTED ‘THIRD FORCE’, A NETWORK OF SECURITY AND EX-SECURITY FORCE OPERATIVES, ACTING FREQUENTLY IN CONJUNCTION WITH RIGHT-WING ELEMENTS AND/OR SECTORS OF THE IFP, WERE INVOLVED IN ACTIONS THAT COULD BE CONSTRUED AS FOMENTING VIOLENCE AND WHICH RESULTED IN GROSS VIOLATIONS OF HUMAN RIGHTS, INCLUDING RANDOM AND TARGETED KILLINGS.

THE COMMISSION FINDS THAT, DURING THE 1980S, SUCH NETWORKS ESTABLISHED ‘PARTNERSHIPS’ WITH PRO-GOVERNMENT INDIVIDUALS OR GROUPS AT A LOCAL LEVEL WHO THEN ACTED IN CONCERT TO PERPETRATE SUCH VIOLATIONS. FURTHER THAT THE SANCTION OF ILLEGAL ACTIVITIES BY SECURITY FORCE OPERATIVES DURING THE 1980S PROVIDED THE BASIS FOR THEIR CONTINUATION IN THE 1990S.

THE COMMISSION FINDS FURTHER THAT SUCH NETWORKS FUNCTIONED AT TIMES WITH THE ACTIVE COLLUSION AND/OR KNOWLEDGE OF SENIOR SECURITY FORCE PERSONNEL, AND THAT THE FORMER GOVERNMENT, EITHER DELIBERATELY OR BY OMISSION, FAILED TO TAKE SUFFICIENT STEPS TO PUT AN END TO SUCH PRACTICES.

THE COMMISSION FINDS THAT THE SUCCESS OF 'THIRD FORCE' ATTEMPTS TO GENERATE VIOLENCE WAS AT LEAST IN PART A CONSEQUENCE OF EXTREMELY HIGH LEVELS OF POLITICAL INTOLERANCE, FOR WHICH ALL PARTIES TO THE CONFLICT ARE HELD TO BE MORALLY AND POLITICALLY ACCOUNTABLE.